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State of New Jersey  
THE PINELANDS COMMISSION  
PO Box 359  
NEW LISBON, NJ 08064  
(609) 894-7300  
www.nj.gov/pinelands



Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

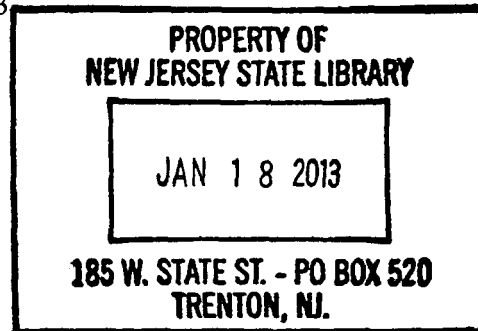
General Information: Info@njpinelands.state.nj.us  
Application Specific Information: AppInfo@njpinelands.state.nj.us

Mark S. Lohbauer  
Chairman

Nancy Wittenberg  
Executive Director

January 16, 2013

Mr. Robert Lupp  
State Library – NJ Reference Section  
185 West State Street  
P.O. Box 520  
Trenton, New Jersey 08625



Dear Mr. Lupp:

Enclosed is the Pinelands Commission meeting minutes for December 14, 2012 for your information.

Sincerely,

Melody A. Wood  
Receptionist

PC1

Enclosure: Minutes

PC2-80

PINELANDS COMMISSION MEETING<sup>1</sup>

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

MINUTES

**December 14, 2012**

Commissioners Present

Candace Ashmun, Joe DiBello, John Haas, Ed Lloyd, Paul E. Galletta, Robert Jackson, Ed McGlinchey, Richard Prickett 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

Sean Earlen, Bill Brown, Fran Witt, Gary Quinn, Leslie Ficcaglia, and D'Arcy Rohan Green.

Chairman Lohbauer called the meeting to order at 9:40 a.m.

DAG Heinzerling read the Open Public Meetings Act Statement.

Chairman Lohbauer introduced and welcomed the Commission's newly-appointed federal representative, Mr. Joe DiBello. Mr. DiBello resides in Ardmore, Pennsylvania and he is the superintendent of the Washington Rochambeau Revolutionary Route National Historic Trail.

DAG Heinzerling administered the oath of office to Mr. DiBello.

Commissioner DiBello said he is excited to serve on the Commission and looks forward to learning about the Pinelands.

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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.

Ms. Wittenberg called the roll and announced the presence of a quorum. (There were 9 Commissioners present.)

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

### Minutes

Chairman Lohbauer presented the November 9, 2012 Commission meeting minutes (open and closed session). Commissioner Ashmun moved the adoption of the minutes. Commissioner Prickett seconded the motion.

The minutes of the November 9, 2012 meeting were adopted by a vote of 8 to 0, with Commissioner DiBello abstaining.

### Committee Chairs' Reports

#### Personnel and Budget Committee Meeting

Commissioner Prickett updated the Commission on action from the December 4, 2012 Personnel and Budget Committee meeting.

The Committee adopted the minutes from the July 3, 2012 meeting.

The Committee reviewed and recommended Commission approval of the resolutions to Authorize the Executive Director to Enter into an Agreement with the US Geological Survey (USGS) to Compare the Functional Equivalency of Natural and Created Wetlands and to Authorize the Executive Director to Pay for Legal Services.

The FY2012 Financial Reports were reviewed by Donna Connor. It was noted that these reports were produced from the Commission's accounting system and need to be converted to a modified accrual basis in preparation for the audit. An RFP for accounting services is being prepared to assist in this process.

The Summary of Commission's Deferred Revenue and Reserve Accounts was reviewed by Donna Connor. The Committee discussed the purpose and balances of several reserve accounts.

Dawn Rago discussed insurance renewals. It was noted that the crime policy is being investigated to see if the Commission needs this additional coverage.

Financial updates, including the Check Register and Electronic Funds Transfers for July, August, September, October, and November were reviewed. An update on application fees was also provided.

Donna Connor noted that the FY 2014 budget request documents have been sent to OMB.

## PC2-82

Confidential and personnel matters were discussed in closed session.

### Policy and Implementation Committee Meeting

Commissioner Jackson updated the Commission on action from the November 30, 2012 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the October 26, 2012 meeting.

The Committee recommended that the Commission certify Evesham Township Resolution PB-12-06 and Ordinance 20-7-2012, their response to the CMP amendments related to forestry, wetlands management and residential cluster development in the Pinelands Forest and Rural Development Areas.

The Committee granted a request from the Nature Conservancy for advancement of funding from the Pinelands Conservation Fund prior to closing on the Lenape Farms project.

The Committee reviewed the 2012 Implementation Report on the Alternate Design Treatment System Pilot Program. A formal rule proposal will be drafted to extend the installation dates of two of the pilot systems until August 2016.

### Plan Review Committee

Commissioner Ashmun updated the Commission on action from the November 9, 2012 meeting:

A summary of public comments was provided; comments were wide-ranging and covered many topics. *Commissioner Ashmun thanked everyone who submitted comments.*

A timeline for the remaining Plan Review tasks was provided and reviewed. The timeline goes through December 2013.

A list of efficiency measures being considered for the first round of rule proposals was provided and reviewed. The first rule proposals will require minimal staff resources and time, are uncontroversial, and will increase staff productivity.

A second round of rule proposals will follow in 2013. The second round will address larger, more substantive issues that will require more staff resources and time to complete.

The next steps:

1. Staff will write a progress report.

2. Staff will provide Committee members with a list of potential additions to the list of application exemptions.
3. Committee members will begin to consider which topics should be addressed in the second, more substantive rule proposal package.

#### Executive Director's Reports

Ms. Nancy Wittenberg updated the Commissioners on the following:

- Two meetings took place on forestry: one with Senator Smith and another with Ray Cantor from DEP.
- She attended the Pinelands Municipal Council meeting in Maurice River and provided an update on Plan Review.
- Efforts continue on the efficiency study. Currently staff is focusing on implementing some new processes.
- Staff is working diligently on Plan Review. The goal is to work on some simpler items for the first rule proposal, which could be combined with the septic program rules.
- An old mining site in Barnegat is being used for the storage of many hurricane-damaged vehicles. The tract of land is being leased by Insurance Auto Auctions, Inc. (IAA) a company that purchases impaired cars from insurance companies (Geico, Allstate). As soon as the Commission received reports on this matter IAA was contacted. Initially the Commission received reports that they were dumping the cars and burying them. Staff inspected the site and determined that this was not the case. The cars are being stored in a very organized manner. Numerous meetings have taken place. The Commission sent a letter to the land owner as did the County Soil Conservation District advising that a violation had taken place. Ms. Wittenberg tried to get some guidance from the DEP but they do not regulate this type of activity. The cars will be stored at the property for a number of months. IAA has employees on the site constantly monitoring the vehicles. The site is entirely dirt but IAA has done some grading and placed some concrete associated with the temporary storage of the vehicles. Ms. Wittenberg and Stacey Roth attended a meeting with the Township, property owner and IAA. During the meeting, certain assurances were made that left staff feeling more comfortable, such as no more cars are being brought to the site and the property being restored to its original state.

Commissioners discussed the lasting effects Hurricane Sandy has had on the state of New Jersey.

- The Commission will welcome another new employee in January to the Planning office.
- Staff has met internally to discuss the Manchester Ordinance that was delayed from the November agenda because of a mapping discrepancy. Staff also met with the applicant and Township on this matter. The applicant has agreed to survey the parcel. Once that has been submitted and reviewed, staff hopes to move forward.
- Ms. Wittenberg displayed the new Certificate of Filing on the Smartboard. The internal Writing Committee created this document.

## PC2-84

Mr. Larry Liggett updated the Commission on the following:

- The Water Supply Advisory Council continues to ask for the water supply plan to be released. The Council has been making suggestions on how water should be regulated in the future and how it relates to water supply.
- The Long Term Economic Monitoring report covering 2011 and 2012 will be ready in early 2013.
- Staff met with Atlantic County and the Turnpike Authority to discuss the secondary impacts of Exit 44 on the Garden State Parkway.
- The appropriate documents have been filed with DEP for a blanket treatment works approval for the four new septic systems. Processing has been tied up because DEP is dealing with the aftermath of Hurricane Sandy.
- Staff has been working with the Town of Hammonton on improvements to the sewage treatment plant. It has been agreed that an expert should be retained to determine the best option for the future of the treatment plant.

Mr. Horner updated the Commission on the following:

- Staff met with DEP in an attempt to pre-delineate Enduro routes through Wharton State Forest.
- Staff met with DOT to further discuss DOT's interest in an MOA for certain road projects. This MOA would be very similar to the current MOA the Commission has with the Counties.
- Staff has been assisting the Town of Hammonton with a potential application to expand its existing airport. The town is currently applying for grant monies for the expansion.
- Staff met with Barnegat Township officials in an attempt to solve flooding issues in the Ocean Acres section of town.

### 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 1988-0706.016) (See Resolution # PC4-12-40). Commissioner Jackson seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0.

### Resolutions Relating to Municipal Ordinances

Commissioner Galletta moved the adoption of a Resolution Issuing an Order to Certify Evesham Township Resolution PB-12-06, Approving the 2012 Master Plan Reexamination and Amendment for the Pinelands Area and May 2012 Open Space and Recreation Plan, and Ordinance 20-7-2012, Amending Chapter 160 (Zoning) of the Code of Evesham Township (See Resolution # PC4-12-41). Commissioner McGlinchey seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0.

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

No one from the public offered comment.

### Other Resolutions

Commissioner McGlinchey moved the adoption Setting Pinelands Commission Meeting Dates for 2013 (See Resolution #PC4-12-42). Commissioner Haas seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0.

Commissioner McGlinchey moved the adoption Authorizing the Executive Director to Pay for Legal Services (See Resolution #PC4-12- 43). Commissioner Ashmun seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0.

Commissioner Lloyd moved the adoption to Authorize the Executive Director to Enter into an Agreement with the US Geological Survey (USGS) to Conduct a Portion of the Study to Compare the Functional Equivalency of Natural and Created Wetlands (See Resolution #PC4-12-44). Commissioner Galletta seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0.

### Ordinances Not Requiring Commission Action

The following ordinances required no action:

- Hamilton Township Ordinance 1728-2012
- Hamilton Township Ordinance 1731-2012
- Southampton Township Ordinance 2012-04
- Southampton Township Ordinance 2012-8
- Washington Township Ordinance 2012-07

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

No one from the public offered comment.

### Other

Commissioner McGlinchey said that it may be a good time to resurrect the Commission's Agricultural Advisory Committee.

PC2-86

Commissioner Lohbauer agreed and mentioned that he has been contacted by Denny Doyle who represents the Agriculture community, and Commissioner Galletta on that exact topic.

Commissioner Galletta said the Committee may be able to meet in the spring and fall. He also said that in the past there has been a conflict with being a member of the Agriculture Committee and a Commissioner.

Chairman Lohbauer said he would be happy to work with Commissioners Galletta and McGlinchey and Ms. Wittenberg in reestablishing the Agricultural Committee.

Commissioner McGlinchey asked to make one more comment, regarding the resolution that was just voted on to authorize the Executive Director to pay legal expenses. He said the amount of money the attorney charged the Commission for their legal services was unacceptable.

Ms. Wittenberg said that the law firm was designated by the Attorney General's office and approved by the Governor's office. She also said contract negotiations are not yet complete.

Chairman Lohbauer suggested making a motion to terminate the relationship with the law firm when negotiations are complete.

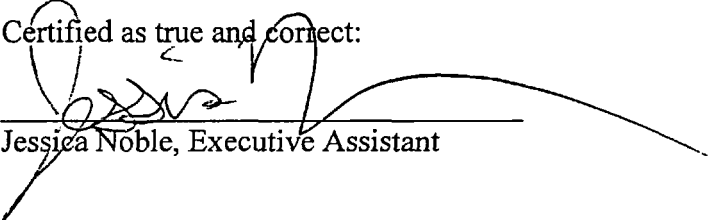
Commissioner McGlinchey asked that he be told when they are complete and he would be happy to make a motion to terminate the contract.

Chairman Lohbauer thanked his fellow Commissioners, Staff and the public for a successful year of work and wished everyone a Happy Holiday.

#### Adjournment

Commissioner Ashmun moved to adjourn the meeting. Commissioner McGlinchey seconded the motion. The Commission agreed to adjourn at 10:54 a.m.

Certified as true and correct:

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

Date: 12/24/12





# RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 410

**TITLE:** Approving With Conditions an Application for a Public Development (Application Number 1988-0706.016)

Commissioner McGlinchey moves and Commissioner Jackson seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Findings of Fact, Conclusion and the recommendation of the Executive Director that the following application for a Public Development be approved with conditions:

**1988-0706.016 TOWN OF HAMMONTON**, Town of Hammonton, Pinelands Town, construction of approximately 2 acres of ground mounted solar panel arrays (Date of Report: November 26, 2012).

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received; and

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period and Governor shall approve same, in which case the action shall become effective upon such approval; and

WHEREAS, the Pinelands Commission hereby determines that the proposed public development conforms to the standards for approving an application for Public Development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed.

**NOW, THEREFORE BE IT RESOLVED** that the following application for Public Development is hereby approved subject to the conditions recommended by the Executive Director.

**1988-0706.016 TOWN OF HAMMONTON**, Town of Hammonton, Pinelands Town, construction of approximately 2 acres of ground mounted solar panel arrays (Date of Report: November 26, 2012).

## Record of Commission Votes

AYE	NAY	NP	ABS	AYE	NAY	NP	ABS	AYE	NAY	NP	ABS
Ashmun	X			Galletta	X			Prickett	X		
Brown		X		Haas	X			Quinn		X	
DiBello	X			Jackson	X			Rohan Green		X	
Earlen		X		Lloyd	X			Witt		X	
Ficcaglia		X		McGlinchey	X			Lohbauer	X		

Adopted at a meeting of the Pinelands Commission

Nancy Wittenberg  
Nancy Wittenberg  
Executive Director

Date: Dec. 14, 2012

Mark S. Lohbauer  
Mark S. Lohbauer  
Chairman



Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

## State of New Jersey

THE PINELANDS COMMISSION

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Mark S. Lohbauer  
Chairman

Nancy Wittenberg  
Executive Director

General Information: [Info@njpines.state.nj.us](mailto:Info@njpines.state.nj.us)  
Application Specific Information: [AppInfo@njpines.state.nj.us](mailto:AppInfo@njpines.state.nj.us)

### REPORT ON AN APPLICATION FOR MAJOR PUBLIC DEVELOPMENT

November 26, 2012

Town of Hammonton  
100 Central Avenue  
Hammonton, NJ 08037

Re: Application #: 1988-0706.016  
County Route 542  
Block 4302, Lot 7  
Town of Hammonton

Dear Applicant:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its December 14, 2012 meeting.

### FINDINGS OF FACT

This application is for the construction of approximately 2 acres (88,914 square feet) of ground mounted solar panel arrays on the above referenced 9.5 acre lot. The solar arrays will be located on a proposed six inch stone bed. The lot is located in the Pinelands Town of Hammonton.

The Pinelands Comprehensive Management Plan (CMP) permits solar facilities as a principal use in a Pinelands Town. The proposed solar facility is intended to provide electricity to the existing Town of Hammonton wastewater treatment plant which is located directly across County Route 542 (Pleasant Mills Road) from the proposed facility. The proposed solar facility will produce approximately 1,303,700 KWH per year.

On May 13, 1994, the Commission approved the decommissioning and demolition of an existing wastewater treatment plant located on the above referenced lot (App. No. 1988-0706.006). Based upon that Commission approval, portions of the plant were removed. The applicant will be demolishing the remaining wastewater treat plant facilities, including sludge drying beds, secondary trickling filter and portions of concrete and asphalt pavement.



There are wetlands located on and within 300 feet of the lot. The proposed solar facility will be located further from wetlands than the prior sewage treatment plant.

On April 22, 2010, Public Law 2010, c.4 went into effect. Chapter 13:18A-5.2 of that law prohibits the Pinelands Commission from including solar panels in any calculation of impervious surface or impervious cover that may be required for an application for development in the Pinelands Area. Therefore, the applicant was not required to address the stormwater management standards of the CMP for the proposed solar panels.

The applicant was required to address stormwater management for the proposed six inch stone layer stone and the mounting assemblies for the solar panels. The demolition of the sludge drying beds, secondary trickling filter and concrete and asphalt pavement will result in the removal of 30,007 square feet of impervious surfaces. The proposed development will result in 17,424 square feet of new impervious surfaces. There will be no increase in the volume and rate of stormwater runoff from the project area after development than occurred prior to the proposed development.

The proposed development will be located primarily over maintained grass areas and partially over existing paved and concrete surfaces. The application does not propose ground disturbance, and therefore, no revegetation is proposed.

Based upon the existing conditions, the location of proposed development relative to existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened and endangered species of plants and animals was not required.

Information available to the Commission staff did not provide sufficient evidence of significant cultural resources to require a full cultural survey.

### PUBLIC COMMENT

The applicant has provided the requisite legal notices. Legal notice to required land owners within 200 feet of the above referenced lot was completed on July 17, 2012. Newspaper public notice was completed on July 25, 2012. The application was designated as complete on the Commission's website on November 1, 2012. The Commission's public comment period closed on November 12, 2012. The Pinelands Commission has not received any public comments regarding the application.

### CONCLUSION

The proposed solar facility is a permitted use in a Pinelands Town (N.J.A.C. 7:50-5.27(a)). If the following conditions are imposed, the proposed development will be consistent with the standards contained in Subchapters 5 & 6 of the CMP and the Town of Hammonton certified master plan and land use ordinance.

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 6 sheets, prepared by Adams, Rehmann & Heggan Associates, Inc. and dated as follows:

Sheet 1 – July 2012

Sheet 2 – July 2012; revised August 24, 2012

Sheets 3-5 – July 2012; revised October 3, 2012

Sheet 6 – July 2012; revised July 13, 2012

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.

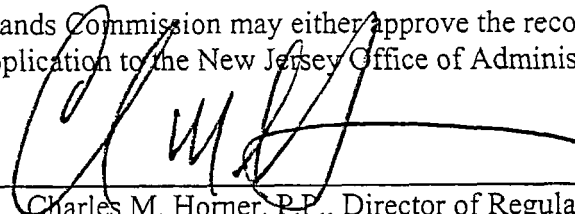
### APPEAL

The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission within eighteen days of the date of this Report and must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Recommended for Approval by:

  
Charles M. Horner, P.P., Director of Regulatory Programs

c: Secretary, Town of Hammonton Planning Board  
Town of Hammonton Environmental Commission  
Atlantic County Department of Regional Planning and Development  
Lance Miller  
Ernest Deman



## **RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-12-41

**TITLE:** Issuing an Order to Certify Evesham Township Resolution PB-12-06, Approving the 2012 Master Plan Reexamination and Amendment for the Pinelands Area and May 2012 Open Space and Recreation Plan, and Ordinance 20-7-2012, Amending Chapter 160 (Zoning) of the Code of Evesham Township

Commissioner Galletta

seconds the motion that:

moves and Commissioner McGlinchey

**WHEREAS**, on July 8, 1983, the Pinelands Commission certified the Master Plan and Land Use Ordinances of Evesham Township; and

**WHEREAS**, Resolution #PC4-83-57 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan or Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plan and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

**WHEREAS**, Resolution #PC4-83-57 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

**WHEREAS**, on January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas; and

**WHEREAS**, on October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management; and

**WHEREAS**, on November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry; and

**WHEREAS**, these three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively; and

**WHEREAS**, municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments; and

**WHEREAS**, on June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously; and

**WHEREAS**, Commission staff subsequently provided a model ordinance and other guidance to Evesham Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments; and

**WHEREAS**, by email dated October 27, 2011, Evesham Township notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments; and

**WHEREAS**, by letter dated October 27, 2011, the Executive Director notified the Township that an extension was granted until April 30, 2012 to accommodate the Township's anticipated adoption schedule for master plan and ordinance amendments; and

**WHEREAS**, by email dated February 8, 2012, Evesham Township notified the Commission of its revised adoption schedule and the need for a further extension of the March 1, 2011 deadline; and

**WHEREAS**, by letter dated February 9, 2012, the Executive Director notified the Township that a second extension was granted until May 31, 2012; and

**WHEREAS**, by letter dated May 17, 2012, the Township requested additional time to complete its adoption process; and

**WHEREAS**, by letter dated May 23, 2012, the Executive Director notified the Township that a final extension was granted until July 31, 2012; and

**WHEREAS**, on June 21, 2012, the Evesham Township Planning Board adopted Resolution PB-12-06, approving the 2012 Master Plan Reexamination and Amendment for the Pinelands Area and the May 2012 Open Space and Recreation Plan; and

**WHEREAS**, the 2012 Master Plan Reexamination Report contains a discussion of the manner in which Evesham Township should respond to recent amendments to the CMP related to cluster development in the Pinelands Forest and Rural Development Areas; and

**WHEREAS**, on July 25, 2012, Evesham Township adopted Ordinance 20-7-2012, amending Chapter 160 (Zoning) of the Township's Code in response to the forestry, wetlands management and residential cluster development amendments to the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Pinelands Commission received a certified copy of Ordinance 20-7-2012 on July 30, 2012; and

**WHEREAS**, the Pinelands Commission received an adopted copy of Resolution PB-12-06 on September 11, 2012; and

**WHEREAS**, by letter dated September 25, 2012, the Executive Director notified the Township that Resolution PB-12-06 and Ordinance 20-7-2012 would require formal review and approval by the Pinelands Commission; and

**WHEREAS**, a public hearing to receive testimony on Resolution PB-12-06 and Ordinance 20-7-2012 was duly advertised, noticed and held on November 7, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

**WHEREAS**, the Executive Director has found that Resolution PB-12-06 and Ordinance 20-7-2012 sufficiently implement the forestry, wetlands management and cluster development amendments to the Comprehensive Management Plan; and

**WHEREAS**, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Resolution PB-12-06, adopting Evesham Township's 2012 Master Plan Reexamination and Amendment for the Pinelands Area and May 2012 Open Space and Recreation Plan, and Ordinance 20-7-2012, amending Chapter 160 (Zoning) of the Code of Evesham Township, are in conformance with the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Resolution PB-12-06 and Ordinance 20-7-2012 be certified; and

**WHEREAS**, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Resolution PB-12-06 and Ordinance 20-7-2012 and has reviewed the Executive Director's report; and

**WHEREAS**, the Pinelands Commission accepts the recommendation of the Executive Director; and

**WHEREAS**, pursuant to N.J.S.A. 13:18A-5H, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE BE IT RESOLVED** that

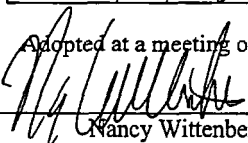
1. An Order is hereby issued to certify that Resolution PB-12-06, adopting Evesham Township's 2012 Master Plan Reexamination and Amendment for the Pinelands Area and May 2012 Open Space and Recreation Plan, and Ordinance 20-7-2012, amending Chapter 160 (Zoning) of the Code of Evesham Township, are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Evesham Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

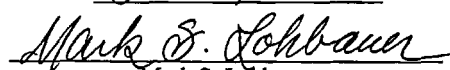
**Record of Commission Votes**

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Galletta	X				Prickett	X			
Brown			X		Haas	X				Quinn			X	
DiBello	X				Jackson	X				Rohan Green			X	
Earlen			X		Lloyd	X				Witt			X	
Ficcaglia			X		McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission

Date: Dec. 14, 2012

  
Nancy Wittenberg  
Executive Director

  
Mark S. Lohbauer  
Chairman





Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

State of New Jersey  
THE PINELANDS COMMISSION  
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www.nj.gov/pinelands

General Information: [Info@njpines.state.nj.us](mailto:Info@njpines.state.nj.us)  
Application Specific Information: [AppInfo@njpines.state.nj.us](mailto:AppInfo@njpines.state.nj.us)



Mark S. Lohbauer  
Chairman

Nancy Wittenberg  
Executive Director

**REPORT ON RESOLUTION PB-12-06, ADOPTING EVESHAM TOWNSHIP'S 2012 MASTER PLAN REEXAMINATION AND AMENDMENT FOR THE PINELANDS AREA AND MAY 2012 OPEN SPACE AND RECREATION PLAN, AND ORDINANCE 20-7-2012, AMENDING CHAPTER 160 (ZONING) OF THE CODE OF EVESHAM TOWNSHIP**

November 30, 2012

Evesham Township  
984 Tuckerton Road  
Marlton, NJ 08053

**FINDINGS OF FACT**

**I. Background**

The Township of Evesham is located in the western portion of the Pinelands Area, in Burlington County. Pinelands municipalities that abut Evesham Township's Pinelands Area include the Townships of Berlin and Waterford in Camden County and Medford Township in Burlington County.

On July 8, 1983, the Pinelands Commission fully certified the Master Plan and codified Land Use Ordinances of Evesham Township.

On January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas. On October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management. On November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry. These three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively.

Municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments. On June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously. Commission staff subsequently



provided a model ordinance and other guidance to the Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments.

By email dated October 27, 2011, Evesham Township notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments. By letter dated October 27, 2011, the Executive Director notified the Township that an extension was granted until April 30, 2012 to accommodate the Township's anticipated adoption schedule for master plan and ordinance amendments.

By email dated February 8, 2012, Evesham Township notified the Commission of its revised adoption schedule and the need for a further extension of the March 1, 2011 deadline. By letter dated February 9, 2012, the Executive Director notified the Township that a second extension was granted until May 31, 2012.

By letter dated May 17, 2012, the Township requested additional time to complete its adoption process. By letter dated May 23, 2012, the Executive Director notified the Township that a final extension was granted until July 31, 2012.

On June 21, 2012, the Evesham Township Planning Board adopted Resolution PB-12-06, approving the 2012 Master Plan Reexamination and Amendment for the Pinelands Area and the May 2012 Open Space and Recreation Plan. The 2012 Master Plan Reexamination Report contains a discussion of the manner in which Evesham Township should respond to recent amendments to the CMP related to cluster development in the Pinelands Forest and Rural Development Areas.

On July 25, 2012, Evesham Township adopted Ordinance 20-7-2012, amending Chapter 160 (Zoning) of the Township's Code in response to the forestry, wetlands management and residential cluster development amendments to the Pinelands Comprehensive Management Plan.

The Pinelands Commission received a certified copy of Ordinance 20-7-2012 on July 30, 2012 and an adopted copy of Resolution PB-12-06 on September 11, 2012.

By letter dated September 25, 2012, the Executive Director notified the Township that Resolution PB-12-06 and Ordinance 20-7-2012 would require formal review and approval by the Pinelands Commission.

## II. Master Plans and Land Use Ordinances

The following documents have been submitted to the Pinelands Commission for certification:

- \* Resolution PB-12-06, approving the 2012 Master Plan Reexamination and Amendment for the Pinelands Area and the May 2012 Open Space and Recreation Plan, adopted by the Planning Board on June 21, 2012; and
- \* Ordinance 20-7-2012, amending Chapter 160 (Zoning) of the Code of Evesham Township, introduced on July 10, 2012 and adopted on July 25, 2012.

These amendments have been reviewed to determine whether they conform with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50 3.39 of the

Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50 3.39.

**1. Natural Resource Inventory**

Not applicable.

**2. Required Provisions of Land Use Ordinance Relating to Development Standards**

*Forestry*

Ordinance 20-7-2012 amends Chapter 160 of the Township's Code by revising and adding definitions related to forestry. Specifically, terms for such forestry activities as "artificial regeneration," "clearcutting" and "disking" are added and the existing definition of "forestry" is revised to make clear that it includes these and other silvicultural practices. Ordinance 20-7-2012 further amends Chapter 160 by replacing Section 160-25C, in its entirety, with an amended set of standards applicable to forestry activities in the Pinelands Area. Included in this revised section are detailed standards for a wide variety of silvicultural practices, as well as limitations on amount of land that may be subject to these practices and the Pinelands Native Forest Types in which such practices may or may not be conducted.

The amended forestry standards adopted by Ordinance 20-7-2012 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan.

*Wetlands Management*

Ordinance 20-7-2012 amends Chapter 160 of the Township's Code by adding a definition of "wetlands management". Ordinance 20-7-2012 also revises Section 160-45E to indicate that wetlands management may be permitted in wetlands, subject to the standards of the Comprehensive Management Plan. In so doing, Ordinance 20-7-2012 sufficiently responds to the December 2009 Comprehensive Management Plan amendments relative to wetlands management.

*Development Transfer Program*

Ordinance 20-7-2012 amends Chapter 160 by revising the provisions of the Township's development transfer program to clarify the types of uses which may be permitted on noncontiguous lands used to meet density requirements. Specifically, Ordinance 20-7-2012 states that all noncontiguous lands utilized in the development transfer program must be permanently protected through recordation of a deed of restriction, with only the following uses permitted: low intensity recreation, ecological management and forestry. Limits on clearing and impervious surface then also apply to these uses.

The amended development transfer program standards adopted by Ordinance 20-7-2012 are consistent with the April 2009 amendments to the Pinelands Comprehensive Management Plan.

### *Cluster Development*

Ordinance 20-7-2012 amends Chapter 160 by adding residential cluster development as a permitted use in the Township's Pinelands Forest and Rural Development Area zoning districts (the FA, FW, RD-1, RD-2, RD-3 and EP Zones). Furthermore, Ordinance 20-7-2012 indicates that whenever two or more residential units are proposed in these zoning districts, cluster development will be required. The ordinance then sets forth the standards which all such cluster developments must meet, including a one acre lot size requirement, the location of the development area itself on a parcel and the provision of accessory recreational amenities. Ordinance 20-7-2012 also specifies that the number of residential lots permitted within a cluster development will be calculated based on the size of the parcel of land and the permitted density allowed in Chapter 160 for the zoning district(s) in which the project will be located. For example, five units would be permitted on a 100 acre parcel located in the Township's FA District, where the permitted density is one unit per 20 acres.

According to Ordinance 20-7-2012, the balance of the parcel located outside the residential cluster development area must be permanently protected through recordation of a deed of conservation restriction. This open space area must be owned and managed by a homeowners association, a non-profit conservation organization or the Township, or it may be incorporated as part of one of the lots within the cluster development area. Permitted uses in the open space area are limited to low intensity recreation, ecological management and forestry, subject to specific limitations on clearing and impervious surface. In addition, in cases where agricultural uses exist on the lands to be protected, Ordinance 20-7-2012 provides that such agricultural uses may be permitted to continue and, in some cases, expand, if certain conditions related to impervious surface and the preparation of Resource Management System Plans are met. Should a cluster development applicant elect to continue or expand an existing agricultural use on the parcel, Ordinance 20-7-2012 requires that all of the new dwelling units to be constructed in the cluster development utilize on-site septic waste water treatment systems designed to reduce the level of nitrate/nitrogen in the waste water.

Ordinance 20-7-2012 also provides bonus density to parcels of 50 or more acres in size. This bonus density ranges from 10 to 30%, depending on the size of the parcel and the permitted density of the zone in which the parcel is located. The larger the parcel and the lower the permitted density, the larger the percentage of bonus density provided.

The bonus density percentages and acreage thresholds adopted by Ordinance 20-7-2012 are identical to those contained in N.J.A.C. 7:50-5.19(d)1 of the Comprehensive Management Plan. However, the Township has elected to make one significant change involving applicability of the bonus provision. Ordinance 20-7-2012 provides for bonus density only if the residential cluster development is located outside the Black Run watershed area. Cluster developments located within the Black Run watershed will not be eligible for bonus density. Ordinance 20-7-2012 further provides that when a developer or land owner controls land on both sides of the watershed boundary, residential lots should to the maximum extent possible be located outside the watershed. Developers and landowners are strongly encouraged to acquire additional lands to expand opportunities to cluster outside the Black Run watershed. In cases where a parcel is divided by the watershed line (depicted on the Township's Zoning Map), bonus density will be applied proportionate to the percentage of the total number of units the developer or landowner is able to locate outside the watershed.

Ordinance 20-7-2012 makes one other change to the Comprehensive Management Plan clustering provisions. Whereas the Forest and Rural Development Area clustering provisions in the Comprehensive Management Plan are based on the use of contiguous lands only, Ordinance 20-7-2012 provides that cluster developments may utilize both contiguous **and non-contiguous lands**. According to Ordinance 20-7-2012, the noncontiguous lands must be in common ownership with the parcel on which the cluster development will be located, and they must be located in the same zoning district as the proposed cluster development.

Pinelands municipalities have always had the general ability to refine the various standards and provisions of the Comprehensive Management Plan and tailor them to local conditions, provided Comprehensive Management Plan goals and objectives continue to be achieved. Subchapter 5 (Minimum Standards for Land Uses and Intensities) of the Comprehensive Management Plan expressly recognizes this general ability. Moreover, when the Commission adopted its clustering amendments, a new certification standard was incorporated in order to make clear that this practice extends to the Forest and Rural Development Area residential clustering program. N.J.A.C. 7:50-3.39(a)2ix provides that municipalities may propose and the Commission may approve clustering ordinances that contain different standards than those set forth at N.J.A.C. 7:50-5.19(c) and (d), provided such standards are supported through the application of sound land use planning principles, are based upon local conditions or circumstances and do not undermine the overall objectives of the Forest and Rural Development clustering program.

In this case, Evesham Township has modified Comprehensive Management Plan clustering standards in order to recognize the environmental sensitivity of the Black Run watershed within the municipality's Rural Development Area. The location of the Black Run watershed is depicted on the Township's Zoning Map (see Exhibit #1). This watershed was identified in the Sub-Regional Resource Protection Plan for Southern Medford/Evesham Townships as one which exhibits characteristic Pinelands water quality. The Southern/Medford Evesham Plan was the result of a year and a half planning effort undertaken by Medford and Evesham Townships, the New Jersey Department of Environmental Protection and the Commission. It recommended a number of regulatory and non-regulatory strategies aimed at preserving the attributes of the Black Run watershed. Among the regulatory strategies were zoning changes to decrease development potential and disturbance in the watershed, the creation of a receiving area outside the watershed for density transfer purposes, and mandatory clustering. The Plan was endorsed by the Commission in 2006 and the zoning recommendations contained therein were subsequently adopted by the Evesham Township Planning Board and incorporated in the Township's 2006 Master Plan. However, implementation of the zoning recommendations through the municipality's adoption of ordinances did not proceed.

The Commission's 2009 adoption of the mandatory clustering amendments to the CMP provided the Township with a new opportunity to consider ways in which to better protect the Black Run watershed. The result is a municipal clustering program which provides incentives to developers and landowners to locate their residential units outside the Black Run watershed through the assignment of bonus density. Allowing developers and landowners to utilize noncontiguous lands for cluster development will further encourage the acquisition and development of clustering projects outside the Black Run watershed. The Township has elected not to downzone lands in the Black Run watershed, as was recommended in the Southern Medford/Evesham Plan, nor has a specific receiving area for density transfer purposes been established. Ordinance 20-7-2012 focuses only on clustering as a means of directing development to the most appropriate locations in the Township's Rural Development Area. To the extent that residential development

does occur within the Black Run watershed, no bonus density will apply and the units will have to be clustered on one acre lots, thereby minimizing disturbance and maximizing protected open space. The Township's approach is a creative one which is clearly and appropriately based on local conditions. It represents a successful combination of the density transfer and clustering standards of the Comprehensive Management Plan and appropriately recognizes the well-documented high resource values of an important watershed.

The amendments adopted by Resolution PB-12-06 and Ordinance 20-7-2012 sufficiently respond to the April 2009 Comprehensive Management Plan amendments relative to cluster development and are consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

**3. Requirement for Certificate of Filing and Content of Development Applications**

Ordinance 20-7-2012 amends Chapter 160 by replacing Section 160-25B, in its entirety, with an amended set of application requirements for municipal forestry permits. For forestry activities on parcels of land enrolled in the New Jersey Forest Stewardship Program, an applicant needs only to submit to the municipality a copy of his or her approved Stewardship Plans. For all other forestry applications, the list of submission requirements includes a forestry management plan, information concerning threatened and endangered plants and animals, cultural resources and the use of herbicides, written comments from the New Jersey State Forester and a Certificate of Filing issued by the Pinelands Commission.

The amended forestry application requirements adopted by Ordinance 20-7-2012 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

**4. Requirement for Municipal Review and Action on All Development**

Not applicable.

**5. Review and Action on Forestry Applications**

Not applicable.

**6. Review of Local Permits**

Not applicable.

**7. Requirement for Capital Improvement Program**

Not applicable.

**8. Accommodation of Pinelands Development Credits**

Not applicable.

**9. Referral of Development Applications to Environmental Commission**

Not applicable.

**10. General Conformance Requirements**

Evesham Township Resolution PB-12-06, adopting the 2012 Master Plan Reexamination and Amendment and May 2012 Open Space and Recreation Plan, and Ordinance 20-7-2012, amending the Chapter 160 (Land Use) of the Code of Evesham Township, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

**11. Conformance with Energy Conservation**

Not applicable.

**12. Conformance with the Federal Act**

Evesham Township Resolution PB-12-06, adopting the 2012 Master Plan Reexamination and Amendment and May 2012 Open Space and Recreation Plan, and Ordinance 20-7-2012, amending Chapter 160 (Land Use) of the Code of Evesham Township, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

**13. Procedure to Resolve Intermunicipal Conflicts**

Not applicable.

**PUBLIC HEARING**

A public hearing to receive testimony concerning Evesham Township's application for certification of Resolution PB-12-06 and Ordinance 20-7-2012 was duly advertised, noticed and held on November 7, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which the following testimony was received:



John Volpa introduced himself as a resident of Evesham Township, a member of the Evesham Township Environmental Commission, and chairman of the Friends of the Black Run Preserve. Mr. Volpa urged the Commission to certify Ordinance 20-7-2012. He stated that the Environmental Commission and the Friends of the Black Run Preserve have worked closely with the Township in this matter. He stated that it is critical that the pristine qualities of the Black Run headwaters be protected in perpetuity.

Barbara Rich noted that she was the past president of the Rancocas Conservancy but was testifying at today's hearing as an individual. She stated that the Rancocas Conservancy has been involved in preserving land in the Black Run watershed for years. Both Medford and Evesham Townships have also worked for years to preserve environmentally sensitive lands in the area. She stated that Evesham Township's clustering ordinance will help to accomplish the goals of the municipalities and the Rancocas Conservancy. Ms. Rich concluded by stating that it was very important to protect the headwaters of the Black Run for habitat and water supply purposes.

There being no further testimony, the hearing was concluded at 9:45 a.m.

Written comments were accepted through November 13, 2012 and were received from 11 organizations and individuals (see Exhibit #2 for complete list).

### CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Resolution PB-12-06 and Ordinance 20-7-2012 sufficiently implement the April 2009, December 2009 and March 2010 amendments to the Pinelands Comprehensive Management Plan and comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify the Resolution PB-12-06 and Ordinance 20-7-2012 of Evesham Township.

SRG/CEV  
Attachments



# RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 42

**TITLE:** Setting Pinelands Commission Meeting Dates for 2013

Commissioner McGlinchey moves and Commissioner Haas seconds the motion that:

**WHEREAS**, the Open Public Meetings Act requires that the Pinelands Commission establish an annual schedule of regular meetings prior to January 10<sup>th</sup> of each year; and

**WHEREAS**, the Pinelands Commission would like to utilize the Pinelands Commission's Richard J. Sullivan Center for Environmental Policy and Education in New Lisbon, Pemberton Township, as the regular site for its meetings; and

**WHEREAS**, the Pinelands Commission may need to find an alternate, temporary meeting location within the Pinelands Area for its meetings throughout the year; and

**WHEREAS**, any meeting which will be scheduled at a location other than the Pinelands Commission's Richard J. Sullivan Center for Environmental Policy and Education, 15 C Springfield Road, New Lisbon, Pemberton Township, will be advertised in accordance with the requirements of the Open Public Meetings Act; and

**WHEREAS**, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE BE IT RESOLVED** that the Pinelands Commission shall conduct its meetings on the following dates in 2013 beginning at the specified time at the Pinelands Commission's Richard J. Sullivan Center for Environmental Policy and Education, 15 C Springfield Road, New Lisbon, Pemberton Township, New Jersey, unless notice is otherwise provided in accordance with the Open Public Meetings Act:

Friday, January 11, 2013 (9:30 a.m.)	Friday, July 12, 2013 (9:30 a.m.)
Friday, February 8, 2013 (9:30 a.m.)	Friday, August 9, 2013 (9:30 a.m.)
Friday, March 8, 2013 (9:30 a.m.)	Friday, September 13, 2013 (9:30 a.m.)
Friday, April 12, 2013 (9:30 a.m.)	Friday, October 11, 2013 (9:30 a.m.)
Friday, May 10, 2013 (9:30 a.m.)	Friday, November 8, 2013 (9:30 a.m.)
Friday, June 14, 2013 (9:30 a.m.)	Friday, December 13, 2013 (9:30 a.m.)

**BE IT FURTHER RESOLVED** that the Executive Director is directed to publish notice of this schedule in the Commission's official newspapers, file copies of the schedule with the Secretary of State of the State of New Jersey and Pinelands county and municipal clerks, post a copy of the notice in the Commission's offices and to post the annual schedule on the Commission's web page ([www.nj.gov/pinelands](http://www.nj.gov/pinelands)).

## Record of Commission Votes

AYE NAY NP ABS				AYE NAY NP ABS				AYE NAY NP ABS			
Ashmun	<input checked="" type="checkbox"/>			Galletta	<input checked="" type="checkbox"/>			Prickett	<input checked="" type="checkbox"/>		
Brown		<input checked="" type="checkbox"/>		Haas	<input checked="" type="checkbox"/>			Quinn			
DiBello	<input checked="" type="checkbox"/>			Jackson	<input checked="" type="checkbox"/>			Rohan Green		<input checked="" type="checkbox"/>	
Earlen		<input checked="" type="checkbox"/>		Lloyd	<input checked="" type="checkbox"/>			Witt		<input checked="" type="checkbox"/>	
Ficcaglia		<input checked="" type="checkbox"/>		McGlinchey	<input checked="" type="checkbox"/>			Lohbauer	<input checked="" type="checkbox"/>		

Adopted at a meeting of the Pinelands Commission  
  
 Nancy Wittenberg  
 Executive Director

Date: Dec. 14, 2012  
  
 Mark S. Lohbauer  
 Chairman





# RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 43

**TITLE:** Authorizing the Executive Director to Pay for Legal Services

Commissioner McGlinchey moves and Commissioner Ashmun seconds the motion that:

**WHEREAS**, the Public Employment Relations Commission has certified Local 1040 of the Communications Workers of America as the representative of the employees of the Commission; and

**WHEREAS**, the Commission and Local 1040 have been re-negotiating collective bargaining agreements between the Commission and the three certified negotiating units; and

**WHEREAS**, after consultation with the Attorney General and the Governor, the Commission obtained the services of outside counsel with expertise in negotiating collective bargaining agreements and labor law; and

**WHEREAS**, in Fiscal Year 2012, the Commission paid \$9,994.88 to McElroy, Deutsch, Mulvaney & Carpenter, LLP, for services related to the re-negotiation of the collective bargaining agreements; and

**WHEREAS**, an additional \$27,690.42 was encumbered for outstanding invoices in Fiscal Year 2012 to cover legal services related to the re-negotiation of the collective bargaining agreements; and

**WHEREAS**, the FY 2013 operating budget appropriates \$60,000 of additional legal costs; and

**WHEREAS**, this resolution will allow the Executive Director to pay an amount not to exceed \$97,685.30 to McElroy, Deutsch, Mulvaney & Carpenter, LLP for legal services related to the re-negotiation of the collective bargaining agreements; and

**WHEREAS**, the bylaws of the Pinelands Commission require the Commission's approval of contracts in excess of the threshold stipulated in N.J.S.A. 52:25-23, currently \$36,000; and

**WHEREAS**, the Personnel and Budget Committee has reviewed this resolution and recommends Commission approval; and

**WHEREAS**, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE BE IT RESOLVED** that the Commission authorizes the Executive Director to pay an amount not to exceed \$97,685.30 to McElroy, Deutsch, Mulvaney & Carpenter, LLP.

## Record of Commission Votes

AYE	NAY	NP	ABS	AYE	NAY	NP	ABS	AYE	NAY	NP	ABS
Ashmun	<input checked="" type="checkbox"/>			Galletta	<input checked="" type="checkbox"/>			Prickett	<input checked="" type="checkbox"/>		
Brown		<input checked="" type="checkbox"/>		Haas	<input checked="" type="checkbox"/>			Quinn		<input checked="" type="checkbox"/>	
DiBello	<input checked="" type="checkbox"/>			Jackson	<input checked="" type="checkbox"/>			Rohan Green		<input checked="" type="checkbox"/>	
Earlen		<input checked="" type="checkbox"/>		Lloyd	<input checked="" type="checkbox"/>			Witt		<input checked="" type="checkbox"/>	
Ficcaglia		<input checked="" type="checkbox"/>		McGlinchey	<input checked="" type="checkbox"/>			Lohbauer	<input checked="" type="checkbox"/>		

Adopted at a meeting of the Pinelands Commission

Nancy Wittenberg  
Nancy Wittenberg  
Executive Director

Date: Dec. 14, 2012

Mark S. Lohbauer  
Mark S. Lohbauer  
Chairman



## **RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-12- 44

**TITLE:** To Authorize the Executive Director to Enter into an Agreement with the US Geological Survey (USGS) to Conduct a Portion of the Study to Compare the Functional Equivalency of Natural and Created Wetlands

Commissioner Lloyd  
seconds the motion that:

moves and Commissioner Celler

**WHEREAS**, in November 2012, the Commission authorized the Executive Director to accept a grant from the U.S. Environmental Protection Agency (USEPA) to Conduct a Study titled "Comparing the Functional Equivalency of Natural and Created Wetlands"; and

**WHEREAS**, a portion of the study will include analyses for the presence of current-use pesticides and amphibian pathogens in a subset of the natural and created wetlands; and

**WHEREAS**, U. S. Geological Survey (USGS) scientists with expertise in pesticide and pathogen sampling and analysis will conduct the pesticide/pathogen portion of the study with services not to exceed \$173,200, consistent with the attached agreement and scope of work; and

**WHEREAS**, the USGS has agreed to provide \$50,000 toward these services; and

**WHEREAS**, the Commission's portion toward these services totals \$123,200, as shown in the attached agreement; and

**WHEREAS**, sufficient funding exists in the USEPA grant budget to fund the Commission's portion of this agreement; and

**WHEREAS**, the bylaws of the Pinelands Commission require the Commission's approval of contracts in excess of the threshold stipulated in N.J.S.A. 52:25:23, currently set by the State Division of Purchase and Property at \$36,000; and

**WHEREAS**, the Personnel and Budget Committee has reviewed the attached agreement and scope of work and recommends Commission approval; and

**WHEREAS**, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW THEREFORE BE IT RESOLVED that:

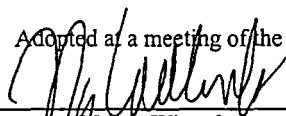
1. The Pinelands Commission authorizes the Executive Director to enter into an agreement, consistent with the attachment, with the US Geological Survey (USGS) to conduct the pesticide/pathogen portion of the study to compare the functional equivalency of natural and created wetlands.
2. The Executive Director is authorized to approve agreement modifications as necessary to accomplish the project's goal, provided that any such modifications do not materially change the project's objectives and do not increase the Commission's costs.

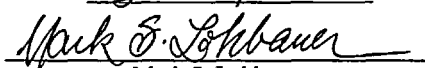
Record of Commission Votes

AYE NAY NP ABS				AYE NAY NP ABS				AYE NAY NP ABS			
Ashmun	X			Galletta	X			Prickett	X		
Brown		X		Haas	X			Quinn			X
DiBello	X			Jackson	X			Rohan Green			X
Earlen		X		Lloyd	X			Witt			X
Ficcaglia		X		McGlinchey	X			Lohbauer	X		

Adopted at a meeting of the Pinelands Commission

Date: Dec. 14, 2012

  
Nancy Wittenberg  
Executive Director

  
Mark S. Lohbauer  
Chairman

Form 9-1366  
(Oct. 2005)

**U.S. Department of the Interior  
U.S. Geological Survey  
Joint Funding Agreement**

Page 1 of 2  
Customer #: 6000000295  
Agreement #: 13ENNJ000000040  
Project #:  
TIN #: 22-2273210  
Fixed Cost Agreement ☒ Yes ☐ No

**FOR  
WATER RESOURCES INVESTIGATIONS**

THIS AGREEMENT is entered into as of the 1st day of January, 2013, by the U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the PINELANDS COMMISSION, party of the second part.

1. The parties hereto agree that subject to availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation with attachment, herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50; and 43 USC 50b.
2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) includes In-Kind Services in the amount of \$-0-.

(a) \$50,000 by the party of the first part during the period  
January 1, 2013 to December 31, 2016

(b) \$123,200 by the party of the second part during the period  
January 1, 2013 to December 31, 2016

(c) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

(d) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.
4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.
5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.
6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.
7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

Form 9-1366  
continued

**U.S. Department of the Interior  
U.S. Geological Survey  
Joint Funding Agreement**

Customer #: 6000000295  
Agreement #: 13ENNJ000000040  
Project #:  
TIN #: 22-2273210

8. The maps, records, or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records, or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at costs, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records, or reports published by either party shall contain a statement of the cooperative relations between the parties.
9. USGS will issue billings utilizing Department of the Interior Bill for Collection (form DI-1040). Billing documents are to be rendered quarterly. Payments of bills are due within 60 days after the billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30 day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983).

**U.S. Geological Survey  
United States  
Department of the Interior**

**Pinelands Commission**

**USGS Point of Contact**

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**Signatures**

By Richard H. Kropp Date 11/7/12  
Name: Richard H. Kropp  
Title: Director, New Jersey Water Science Center

**Signatures**

By \_\_\_\_\_ Date \_\_\_\_\_  
Name: Nancy Wittenberg  
Title: Executive Director, Pinelands Commission

By \_\_\_\_\_ Date \_\_\_\_\_  
Name:  
Title:

By \_\_\_\_\_ Date \_\_\_\_\_  
Name:  
Title:

By \_\_\_\_\_ Date \_\_\_\_\_  
Name:  
Title:

By \_\_\_\_\_ Date \_\_\_\_\_  
Name:  
Title:

## COMPARING THE FUNCTIONAL EQUIVALENCY OF NATURAL AND CREATED WETLANDS

**Pesticide and Pathogen Sampling.** U.S. Geological Survey (USGS) scientists who have expertise in pesticide and pathogen sampling and analysis will conduct this part of the study. A sub-sample of four reference and four degraded sites from each wetland type (i.e., natural ponds from EPA #97208100 and excavated ponds and stormwater basins from this proposal) will be selected for a total of 24 sites (4 replicate wetlands x 2 wetland conditions x 3 wetland types = 24 sites). A single composite sample each of water, sediment, larval-anuran food resources, and larval anurans will be collected from the 24 wetlands for analysis of a suite of current-use pesticides, including herbicides, insecticides, fungicides, and their degradates. Larval anurans will be tested for emergine pathogens, including chytrid fungus, Ranavirus, and Perkinsus species. Other analyses will include turbidity, pH, specific conductance, dissolved organic carbon, total dissolved nitrogen, percentage organic carbon in sediment, and larval-anuran lipid content. This task will show if emerging amphibian pathogens and current-use pesticides might be present in the three types of reference and degraded wetlands and which wetland type and ecological receptor might be more vulnerable. Data and subsequent interpretations of the data will be provided to Pinelands scientists upon completion.

### Budget-

**Total (FY13-16) - \$173,200**

**Pinelands Commission - \$123,200**

**USGS Federal-State Cooperative Program - \$50,000**

**FY13 - \$0 Pinelands, \$0 USGS Federal-State Cooperative Program**

**FY14 - \$61,600 Pinelands, \$15,000 USGS Federal-State Cooperative Program**

**FY15 - \$61,600 Pinelands, \$15,000 USGS Federal-State Cooperative Program**

**FY16 - \$0 Pinelands, \$20,000 USGS Federal-State Cooperative Program**

### USGS Budget Details (FY13-16)

Project Expenses	
Labor	\$49,375.78
Direct Science Support (Technical Oversight, Database, Clerical, Drafting)	\$15,263.53
Laboratory Analyses	\$73,200.00
Total Indirect Cost (Overhead)	\$35,360.69
Total	\$173,200.00