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Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

State of New Jersey  
THE PINELANDS COMMISSION  
PO BOX 359  
NEW LISBON, NJ 08064  
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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)



Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

January 13, 2020

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

Dear Mr. Lupp:

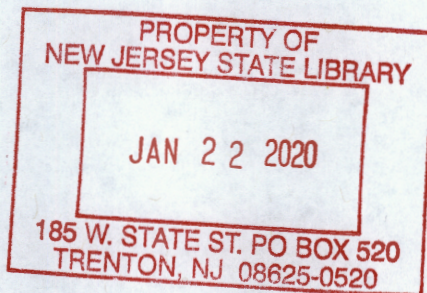
Enclosed is the Pinelands Commission meeting minutes and attachments for December 13, 2019 for your information.

Sincerely,

A handwritten signature in cursive script that reads "Teri Melodick".

Teri Melodick  
Principal Clerical Assistant

PC1  
Enclosure: Minutes





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 NEW JERSEY STATE LIBRARY  
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*Handwritten signature*

1. Processing / filing



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

MINUTES

**December 13, 2019**

Commissioners Present

Alan W. Avery Jr., Sean Earlen, Jordan P. Howell, Jerome H. Irick, Ed Lloyd, Mark Lohbauer, William Pikolycky, Gary Quinn and Chairman Richard Prickett. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Craig Ambrose and Deputy Attorney General (DAG) Kristina Miles.

Commissioners Absent

Candace M. Ashmun, Daniel Christy, Jane Jannarone and D'Arcy Rohan Green.

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

Stacey Roth, Chief, Legal and Legislative Affairs read the Open Public Meetings Act Statement (OPMA).

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

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

Minutes

Chairman Prickett presented the minutes from the November 8, 2019 meeting. Commissioner Avery moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes from the November 8, 2019 meeting were adopted by a vote of 8 to 0. Commissioner Earlen abstained.

Committee Chairs' Reports

Chairman Prickett provided an update from the November 22, 2019 Policy & Implementation (P&I) Committee meeting:

The Committee adopted the minutes of the September 27, 2019 meeting.

The Committee received an update and recommended the full Commission extend the Right-of-Way pilot program for an additional two years.

The Committee received an update on the schedule for a revised Memorandum of Agreement with Atlantic County for development activities at Lake Lenape. It is anticipated that the revisions will be presented to this Committee in January 2020 and that a final updated MOA could be considered by the full Commission at its April meeting.

The Committee received a presentation from the Executive Director of the State Agriculture Development Committee, Ms. Susan Payne, regarding Special Occasion Events on preserved farms. Ms. Roth will coordinate the submission of any comments by Commissioners on the draft proposal.

The Committee asked staff to pursue federal appropriation of the remaining \$8 million of Section 502 funding for land acquisition. Staff is updating mapping to identify the location of lands of interest. The Governor's office will coordinate the effort.

Executive Director's Reports

ED Wittenberg provided an update on the following items:

- Staff met with a communications solution firm to discuss the conference equipment in the Terrence D. Moore Conference room. A request for proposals for audio and conferencing equipment will be generated and go out for bid at the beginning of the year.
- A call has been scheduled with the Governor's Washington D.C. office to discuss the Section 502 funding.
- The Pinelands Municipal Council met on November 26. At that meeting a representative from the Department of Transportation provided an update on the Pine Barrens Byway. The Council also discussed payment in lieu of taxes on preserved land and its impacts on municipalities.

Director Larry Liggett provided an update on the following:

- Staff continues to finalize the Kirkwood-Cohansey rule proposal. A stakeholders meeting is currently being scheduled for late January.

Director Chuck Horner provided information on the following regulatory matters:

- On December 4<sup>th</sup>, staff met with representatives from Public Service Electric & Gas (PSE&G). He said PSE&G requested the meeting to discuss time frame limitations associated with vegetation prescriptions from the Right-of-Way (ROW) Pilot Program to limit the impacts to threatened and endangered species and wetlands.

The New Jersey Department of Environmental Protection requires Best Management Practices on ROW spans. PSE&G is concerned that the overlapping regulations will impact its ability to properly manage the vegetation in the ROW. Staff will be reaching out to the NJDEP to determine if the BMP's are a regulation. PSEG expressed an interest again in using herbicides to control vegetation in the ROW.

- It is our understanding that Jackson Township has denied a large residential development application in the Regional Growth Area. This is the same application where the Commission was notified that threatened and endangered species were found on the parcel. If the approval was denied, the Commission would not review that denial.
- The Commission has received two inquiries about the installation of guardrail type barriers to be installed in utility Rights-of-Ways through state park lands. He added that based on the size of the barriers, no application is required to the Commission.

Commissioner Lloyd asked who applied to install the barriers.

Director Horner said the New Jersey Conservation Foundation has inquired about installing barriers for which they received a grant in the Forked River Wildlife Management Area in Lacey Township. PSE&G previously inquired about installing similar barriers in the ROW in the Waterford Township portion of Wharton State Forest.

Chief Planner Susan R. Grogan provided the following updates:

- In late November, staff issued the Implementation Report for the Alternate Design Wastewater Treatment System Pilot Program. The key recommendation is continue the Pilot Program. The other recommendation includes the removal of three systems because they are either not being used or not functioning properly. Additionally, new systems will be invited to participate in 2020, along with changes to simplify reporting requirements. All of the changes will require amendments to the Comprehensive Management Plan (CMP).
- The NJDEP contacted the Commission and requested a meeting on coordination matters and to discuss issues and concerns. NJDEP also held a similar meeting with the Highlands Council. The meeting was successful and more regular meetings between the Commission and NJDEP will be scheduled.

Commissioner Lohbauer said he was pleased that regular coordination meetings between the Commission and the NJDEP will be taking place and he expressed an interest in attending the meetings.

Chief Planner Grogan provided an update on the Pine Barrens Byway:

She said many years ago the Commission hired a consultant to prepare a Corridor Management Plan in an effort to receive state designation for a scenic byway that is now known as the Pine Barrens Byway. The Byway is a 122-mile route that navigates through five counties and 16 municipalities in the southern portion of the Pinelands. The Byway received state designation and the next step was to form a managing entity. The managing

entity was originally comprised of a representative from each town and county; unfortunately, the managing entity has not functioned well and in recent years has failed to hold meetings.

More recently, the NJDOT has hired a marketing firm to promote and create awareness of all state byways. The plans include a new website and brochure. The NJDOT expressed concerns about the lack of a managing entity for the Pine Barrens Byway. After having no success with determining a managing body, the Commission has decided it will now serve as the entity.

As the managing entity, the Commission will conduct an annual meeting and update the website with Byway news. The visitor center already includes a map of the Byway route. The opportunity for national designation of the byway can also be pursued.

Commissioners briefly discussed options for managing the Byway.

Communications Officer Paul Leakan said staff archeologist Tony McNichol spoke about the Head of the River cemetery in Estell Manor at the Commission's final speaker series. He said he hopes to be scheduling future speakers. He said the 31<sup>st</sup> annual Pinelands Short Course will be held on March 14, 2020 at Stockton University and will feature 42 presentations.

He provided information about live streaming Commission meetings, including the average number of users who live stream the meeting. He said the Commission has been live streaming Commission meetings since July 2017. He said the meetings are archived on YouTube for future viewing.

Commissioner Lloyd said he would like to see the P&I Committee and the Land Use, Climate Impacts and Sustainability Committee meetings live streamed. Staff and Commissioners were unsure about live streaming the Personnel and Budget Committee due to the confidential nature of topics that the Committee discusses.

ED Wittenberg said she was apprehensive about live streaming speaker series presentations because the objective is for the speaker to have an audience and for the attendees to view the exhibit. She said staff can record the presentations and post the video later.

Ms. Roth said she was informed this morning of a possible recusal on the resolution addressing the South Jersey Gas remand. She said she spoke with the Mark Holmes, the Executive Director of the State Ethics Commission, who agreed that recusal of the Commissioner was required. She said she will need to discuss the matter further with Mr. Holmes and the Attorney General's office. She said with the recusal of the Commissioner, there isn't a quorum of the Commission to vote on the South Jersey Gas remand resolution today.

Chairman Prickett asked if the rule of necessity can be used to vote on this matter.

Ms. Roth advised that the rule of necessity was available to the Commission, however permission to use the rule would require approval from the Attorney General's office. She added there was not enough time to have the conversation this morning with the appropriate individuals.

Commissioner Lloyd said, in his opinion, he doesn't believe the rule of necessity applies in this instance. He said just because Commissioners choose not to attend meetings does not mean the Commission can use this provision.

Ms. Roth explained the rule of necessity. She said if a conflict is preventing a board from having the appropriate number of votes required to take an action, an assessment would be carried out to determine if the rule of necessity should be used. She said it is only invoked when an action must occur.

DAG Miles added that the rule of necessity is rarely used. She said it is essentially overruling recusal advice. She said she doesn't have the authority to permit the rule of necessity.

#### Public Development Projects and Other Permit Matters

Chairman Prickett presented a resolution recommending approval of a two lot subdivision and no further development in Medford Township.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1985-0725.003) (two lot subdivision in Medford Township) (See Resolution # PC4-19-42). Commissioner Avery seconded the motion.

Director Horner said the parcel in question is a privately owned half-acre lot; a quarter acre of the lot will be obtained by Medford Township to be used as a public parking area.

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

#### Public Comment on Public Development Applications and Items where the record is open

Chairman Prickett read the list of Public Development and Waiver applications up for comment.

Rhyan Grech of the Pinelands Preservation Alliance provided comments on the South Jersey Transportation Authority (SJTA) application for the development of a deicing apron (#1983-5837.058). She said SJTA should be in full compliance with the requirements of the 2019 Amended Memorandum of Agreement (MOA) before the Commission authorizes approval of the deicing apron. (Comments are attached).

Ms. Roth said staff is working with SJTA to ensure it is in compliance with the requirements of the amended MOA. She added that SJTA recently submitted to the Commission a copy of the amended Airport Layout Plan for the Atlantic City Airport signed by the FAA.

Ms. Roth added that Amended MOA does not require SJTA to have created the new Grassland Conservation Management Area (GCMA) before it can move forward with development applications that were permitted under the prior MOA. She added that finding the right amount of land for the habitat will take some time. The amended MOA permits SJTA to request a one year extension of the deadline to acquire a site for the new GCMA.

In response to Commissioner Howell's questions, Ms. Roth said the first payment from SJTA was received almost immediately after execution of the MOA. She said the Commission asked for and received a monthly status report from SJTA in August. She said SJTA is working towards meeting the requirements of the MOA.

Commissioner Howell noted that he would not vote on any development application at the airport unless it has been demonstrated that SJTA is meeting all requirements of the agreement. He said the amended MOA disrupted a conservation area and he wants to ensure that the disruption is not permanent.

Commissioner Lohbauer agreed with Commissioner Howell's comments. He expressed reluctance to approve development if SJTA is not meeting its obligations. He said the protection of threatened and endangered species is an important goal of the Commission.

Ms. Roth stated the Executive Director's report will address the SJTA MOA and public comment received for the application.

#### Ordinances Not Requiring Commission Action

Chairman Prickett asked if any Commissioners had questions regarding the ordinances not requiring Commission action.

- Egg Harbor City Ordinance 11-2019
- Egg Harbor Township Ordinance 31-2019
- Manchester Township Ordinance 19-026
- Monroe Township Ordinance O:48-2019
- Upper Township Ordinance 0-16-2019
- Washington Township Ordinance 2019-02

No members of the Commission had questions.

#### Other Resolutions

Chairman Prickett presented a resolution to adopt meeting dates for 2020.

Commissioner Avery moved the resolution scheduling Regular Pinelands Commission Meeting dates for 2020. Commissioner Earlen seconded the motion (See Resolution # PC4-19-43).

ED Wittenberg pointed out that the April Commission meeting will be held the first Friday of the month rather than the usual second Friday.

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

Chairman Prickett said the next resolution is to extend the Right-of-Way Vegetation Maintenance Pilot Program.

Commissioner Lohbauer moved to the adoption of a resolution To Extend the Electric Transmission Right-of-Way Vegetation Maintenance Pilot Program. Commissioner Lloyd seconded the motion (See Resolution # PC4-19-44).

Director Horner said the pilot program came to fruition in 2009 when utilities in the Pinelands were having difficulty maintaining the vegetation in Rights-of-Way. The utilities were trying to find a balance of protecting wetlands and threatened and endangered species habitat while providing reliable electric service in the Pinelands. He reviewed a timeline of events over the last decade, which included the Commission adopting a report and amendment to the CMP for the pilot program. He said staff has provided progress reports on the pilot program to the Commission. He said the pilot program is set to expire at the end of December. He said the Vegetation Management Plan outlines prescriptions for 3,000 spans, which are the areas between two transmission poles. He said Regulatory Programs staff inspects the ROW spans and the Science office provides the analysis of the plots within a span. The Vegetation Management Plan has allowed the utilities to do their work, and the spans remain typical of Pinelands habitat. Staff is recommending a two-year extension of the pilot program to allow further evaluation.

Commissioner Irick expressed concerns about the utilities request to apply herbicides in the ROW.

ED Wittenberg said two utilities are interested in applying herbicides.

After a brief conversation about the application of herbicides, ED Wittenberg made it clear that before any utility is permitted to use herbicides, the matter would come back to the Commission for a vote.

Commissioner Lohbauer was appreciative for the clarification about the use of herbicides. He added that he was under the impression from the ROW presentation at the P&I Committee that the analysis has shown a resurgence of some threatened and endangered plant species.

Commission staff clarified that at this time the conclusion that the pilot program has caused threatened and endangered species to flourish cannot be made.

Ms. Jean Montgomerie said that there was a known presence of American Mistletoe in six spans which resulted in requiring a threatened and endangered species survey prior to vegetation management. She said whether the plant was always there or not is unknown.

Director Horner closed by stating that the Vegetation Management Pilot Program has been successful.

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

South Jersey Gas Remand Resolution

Commissioner Prickett announced there would not be a vote on the South Jersey Gas resolution today.

Other

ED Wittenberg announced that long time Commission staff member Director Larry Liggett will retire effective January 1, 2020. ED Wittenberg said Director Liggett's creative way of thinking is irreplaceable.

Chief Planner Grogan said Director Liggett joined the Commission in 1988 and had previously worked for the City of Wilmington. She spoke about the days when she and Director Liggett shared an office in the attic of Fenwick Manor.

Commissioners shared their appreciation for Director Liggett's work over his extensive career at the Commission.

General Public Comment

Jeff Tittel of the Sierra Club congratulated Director Liggett on his retirement. He said the NJDEP issued a report on climate impacts and sea level rise. He said the climate crisis is happening faster than initially thought. He said the state needs to transition to clean energy and stop using fossil fuels. He said the Commission needs new appointments. He said the South Jersey Gas resolution needs to move forward and asked for an amendment to the resolution to include language denying the application. He hopes the Pinelands Commission will begin working on climate change regulations.

Rhyan Grech of the Pinelands Preservation Alliance said she hopes the Commission will work on some climate change initiatives in 2020, such as curbing emissions. She wished Director Liggett well in his retirement.

Margo Pellegrino of Medford Lakes congratulated Director Liggett on his upcoming retirement. She said she enjoyed talking with Director Liggett about birds. She spoke about a local farm where purple martins left after an application of pesticides. She read pieces of a recent NY Times article *Natural Gas Boom Fizzles as a U.S. Glut Sinks Profits*.

Arnold Fishman of Medford Lakes said the resolution to address the South Jersey Gas remand is not strong enough. He said the resolution should rescind the prior approval; deny the application with prejudice in conformance with the Administrative Procedures Act and the CMP.

Margit Meissner Jackson of the Ocean County Sierra Club said by 2100, areas east of Route 9 will be under water. She said the barrier islands are sinking. She said there is enough development on Long Beach Island. She said ever since she installed solar panels on her property she hasn't had an electric bill.

Bill O'Neil of Ocean City said he hopes the Commission votes to end the South Jersey Gas pipeline.

Commissioner Lloyd said the Governor announced that the state of New Jersey will purchase 1,400 acres in Cumberland County, known as Holly Farm. He said the property has many different bird species, including threatened and endangered species. He said although the property is outside of the Pinelands it is pinelands habitat.

Commissioner Avery said the Holly Farm was very important to former Commissioner Brian McFadden, who was from Cumberland County. He said the late Commissioner McFadden would have been pleased with the news of the purchase.

Commissioner Lohbauer said it's important for the Commission to take action to mitigate climate change. He said he hope the Commission settle on climate language to include in the CMP in the first quarter of 2020.

#### Resolution to Retire into Closed Session

DAG Miles read a resolution to enter into closed session to discuss collective bargaining and a personnel matter.

Commissioner made a motion to enter into closed session. Commissioner seconded the motion. The Commission agreed to retire into closed session by a vote of 9 to 0, beginning at 11:26 a.m.

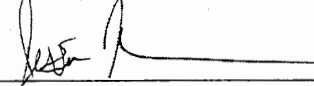
#### Return to Open Session

The Commission entered back into open session at 12:16 p.m. DAG Miles provided a summary of the closed session. She said the Commission was provided an update on the collective bargaining process and a personnel matter.

#### Adjournment

Commissioner Quinn moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 12:17 p.m.

Certified as true and correct:

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

Date: December 23, 2019





**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-19- 42

**TITLE:** Approving With Conditions an Application for **Public Development** (Application Number 1985-0725.003)

Commissioner Lohbauer moves and Commissioner Avery seconds the motion that:

**WHEREAS**, the Pinelands Commission has reviewed the Public Development Application Report and the recommendation of the Executive Director that the following application for Public Development be approved with conditions:

**1985-0725.003**  
**Applicant:** Medford Township  
**Municipality:** Medford Township  
**Management Area:** Pinelands Regional Growth Area  
**Date of Report:** November 19, 2019  
**Proposed Development:** Two lot subdivision and no further development.

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

**WHEREAS**, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for the proposed development; 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; 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.

**NOW, THEREFORE BE IT RESOLVED** that Application Number 1985-0725.003 for public development is hereby **approved** subject to the conditions recommended by the Executive Director.

**Record of Commission Votes**

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun			X		Irick	X				Quinn	X			
Avery	X				Jannarone			X		Rohan Green			X	
Christy			X		Lloyd	X				Prickett	X			
Earlen	X				Lohbauer	X								
Howell	X				Pikolycky	X								

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: December 13, 2019

Nancy Wittenberg  
Nancy Wittenberg  
Executive Director

Richard Prickett  
Richard Prickett  
Chairman





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PHILIP D. MURPHY  
Governor  
SHEILA Y. OLIVER  
Lt. Governor

General Information: Info@pinelands.nj.gov  
Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT  
Chairman  
NANCY WITTENBERG  
Executive Director

November 19, 2019

Katherine Burger (via email)  
Medford Township  
17 North Main Street  
Medford, NJ 08055

Re: Application # 1985-0725.003  
Block 1813, Lot 15  
Medford Township

Dear Ms. Burger:

The Commission staff has completed its review of this application for a two lot subdivision and no further development. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its December 13, 2019 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. 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.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

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

Enc: Appeal Procedure

c: Secretary, Medford Township Planning Board (via email)  
Medford Township Construction Code Official (via email)  
Medford Township Environmental Commission (via email)  
Secretary, Burlington County Planning Board (via email)  
Christopher J. Noll (via email)





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PHILIP D. MURPHY  
Governor  
SHEILA Y. OLIVER  
Lt. Governor

General Information: Info@pinelands.nj.gov  
Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT  
Chairman  
NANCY WITTENBERG  
Executive Director

## **PUBLIC DEVELOPMENT APPLICATION REPORT**

November 19, 2019

Katherine Burger (via email)  
Medford Township  
17 North Main Street  
Medford, NJ 08055

Application No.: 1985-0725.003  
Block 1813, Lot 15  
Medford Township

This application proposes a two lot subdivision and no further development of the above referenced 0.45 acre parcel in Medford Township. There is an existing commercial office building and stone parking lot located on the parcel.

The proposed subdivision will create a 0.25 acre lot containing the existing stone parking lot and a 0.20 acre lot containing the existing commercial office building. The 0.25 acre lot will be acquired by Medford Township and the 0.20 acre lot will be retained by the current owner.

The proposed 0.25 acre lot containing the existing stone parking lot is located immediately adjacent to Block 1807, Lot 7 in Medford Township. That parcel contains an existing building and parking lot owned by the Trustees of the Medford Memorial Community Center (TMMCC). The Township entered into a 2001 lease agreement with the TMMCC to permit the existing parking lot on Block 1807, Lot 7 to be utilized as a parking lot for the benefit of the general public. The parking lot located on the proposed 0.25 acre lot will provide additional parking to the general public.

### **STANDARDS**

The Commission staff has reviewed the proposed subdivision for consistency with all standards of the CMP. The following reviews the CMP standards that are relevant to this application:

#### **Land Use (N.J.A.C. 7:50-5.28)**

The parcel is located in a Pinelands Regional Growth Area. The proposed subdivision is permitted in a Pinelands Regional Growth Area.

### PUBLIC COMMENT

The CMP defines the proposed development as 'minor' development. The CMP does not require public notice for minor public development applications. The application was designated as complete on October 29, 2019. The Commission's public comment period closed on November 8, 2019. No public comment was submitted to the Commission regarding this application.

### CONDITIONS

1. The proposed subdivision shall adhere to the plan prepared by Environmental Resolutions, Inc. and dated August 1, 2019.
2. The applicant shall obtain any other necessary permits and approvals for the subdivision.

### CONCLUSION

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.



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General Information: [Info@pinelands.nj.gov](mailto:Info@pinelands.nj.gov)  
Application Specific Information: [AppInfo@pinelands.nj.gov](mailto:AppInfo@pinelands.nj.gov)

RICHARD PRICKETT  
Chairman  
NANCY WITTENBERG  
Executive Director

**PINELANDS COMMISSION**  
**APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made the by Executive Director to the Commission 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 and received by the Commission's office no later than 5:00 PM on December 9, 2019 and include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. 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.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.





**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-19- 43

**TITLE:** Scheduling Regular Pinelands Commission Meeting dates for 2020

Commissioner Avery moves and Commissioner Earlen 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 will use 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 that 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 2020, 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 10, 2020(9:30 a.m.)   | Friday, July 10, 2020 (9:30 a.m.)      |
| Friday, February 14, 2020 (9:30 a.m.) | Friday, August 14, 2020 (9:30 a.m.)    |
| Friday, March 13, 2020 (9:30 a.m.)    | Friday, September 11, 2020 (9:30 a.m.) |
| Friday, April 3, 2020 (9:30 a.m.)     | Friday, October 9, 2020 (9:30 a.m.)    |
| Friday, May 8, 2020 (9:30 a.m.)       | Friday, November 13, 2020 (9:30 a.m.)  |
| Friday, June 12, 2020 (9:30 a.m.)     | Friday, December 11, 2020 (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 post the annual schedule on the Commission's website ([www.nj.gov/pinelands](http://www.nj.gov/pinelands)).

**Record of Commission Votes**

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun				X	Irick	X				Quinn	X			
Avery	X				Jannarone			X		Rohan Green			X	
Christy			X		Lloyd	X				Prickett	X			
Earlen	X				Lohbauer	X								
Howell	X				Pikolycky	X								

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: December 13, 2019

Nancy Wittenberg  
Nancy Wittenberg  
Executive Director

Richard Prickett  
Richard Prickett  
Chairman





## RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-19- 44

**TITLE:** To Extend the Electric Transmission Right-of-Way Vegetation Maintenance Pilot Program

Commissioner Lehman  
seconds the motion that:

moves and Commissioner Clayton

**WHEREAS**, the New Jersey Pinelands Electric-Transmission Right-of Way Vegetation Management Plan (ROW Plan), dated March 2009, was approved by the Pinelands Commission on October 9, 2009; and

**WHEREAS**, the ROW Plan specifies a variety of vegetation management prescriptions that seek to achieve several ecological and electric transmission line right-of-way objectives; and

**WHEREAS**, the purpose of the ROW Plan is to create and maintain sustainable early successional habitats that are characteristic of the Pinelands Area and which provide habitat for native Pinelands plants and animals, including threatened and endangered species and to ensure the reliability and safety of the electric transmission system in the Pinelands Area by creating and maintaining low growth vegetation communities; and

**WHEREAS**, to implement the ROW Plan, the Commission amended the Pinelands Comprehensive Management Plan (CMP) to establish the Electric Transmission Right-of-Way Maintenance Pilot Program; and

**WHEREAS**, the CMP regulations (N.J.A.C. 7:50-10.31 through 10.35) implementing the Pilot Program became effective on December 21, 2009; and

**WHEREAS**, the Pilot Program was authorized for a ten year period through December 31, 2019; and

**WHEREAS**, the CMP requires that by September 30, 2019, the Executive Director shall report on the Pilot Program's implementation to the Commission, Public Service Electric and Gas, Jersey Central Power and Light, Atlantic City Electric and the New Jersey Board of Public Utilities, to determine whether the Pilot Program is successful in accordance with evaluation criteria set forth in the CMP (N.J.A.C. 7:50-10.35(a)); and

**WHEREAS**, the CMP (N.J.A.C. 7:50-10.35(c) provides that if the Executive Director finds that additional time is needed to fully assess the results of the Pilot Program, he or she shall so inform the Commission and upon Commission approval, the Pilot Program may be extended for up to two years; and

**WHEREAS**, in 2014 and 2017, the Commission staff submitted progress reports to the Commission, indicating that the Pilot Program was being successfully implemented; and

**WHEREAS**, the Executive Director finds that additional time is needed to fully assess the results of the Pilot Program and to formulate the appropriate regulatory approach for long term implementation and incorporation of the ROW Plan into the CMP; and

**WHEREAS**, the Executive Director recommends that the Pinelands Commission extend the Pilot Program for two years; and

**WHEREAS**, the CMP Policy and Implementation Committee has reviewed and endorsed the Executive Director's recommendation; 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.

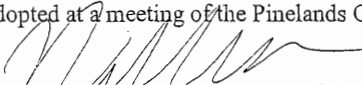
NOW, THEREFORE, BE IT RESOLVED that the Pinelands Commission hereby extends the Electric Transmission Right-of Way Maintenance Pilot Program until September 30, 2021. In accordance with the CMP (N.J.A.C.7:50-10.35(c)), all of the conditions of the Pilot Program shall be extended and remain in full force and effect, including the utility company responsibilities set forth at N.J.A.C. 7:50-10.32(b).

Record of Commission Votes

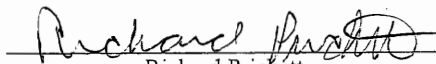
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun			✓	Irick	✓			Quinn	✓		
Avery	✓			Jannarone			✓	Rohan Green			✓
Christy			✓	Lloyd	✓			Prickett	✓		
Earlen	✓			Lohbauer	✓						
Howell	✓			Pikolycky	✓						

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

  
 Nancy Wittenberg  
 Executive Director

Date: December 13, 2019

  
 Richard Prickett  
 Chairman



## PINELANDS PRESERVATION ALLIANCE

Bishop Farmstead • 17 Pemberton Road • Southampton, NJ 08088  
Phone: 609-859-8860 • [ppa@pinelandsalliance.org](mailto:ppa@pinelandsalliance.org) • [www.pinelandsalliance.org](http://www.pinelandsalliance.org)

December 13, 2019

Pinelands Commission  
15 Springfield Road  
New Lisbon, NJ 08064

**Re: Application No. 1983-5837.058 – South Jersey Transportation Authority**

Dear Chairman Prickett and Pinelands Commissioners,

I am writing on behalf of Pinelands Preservation Alliance to express concern regarding the application to build a 12-acre deicing pad at the Atlantic City International Airport (ACY). The 2004 Memorandum of Agreement (MOA) with South Jersey Transportation Authority (SJTA) was created to facilitate several short-term projects at ACY, including the deicing apron presently under consideration. The agreement described a number of mitigation measures, including the development of a Grassland Conservation and Management Plan, to create and enhance habitat to compensate for the loss of critical habitat for grassland species of concern. The mitigations intended to provide the state-listed Upland sandpiper, Grasshopper sparrow and Frosted elfin butterfly with an equivalent level of protection and resources of the Pinelands as they would have been afforded if the Comprehensive Management Plan (CMP) standards were upheld.

The 2004 MOA allowed for certain projects to proceed if and only if a Grassland Conservation and Management Plan with environmental commitments was developed. According to the MOA, an area of 290 acres was to be designated "Grassland Conservation and Management Area (GCMA) - to be Held in Reserve. No Development Shall Occur". This restriction was intended to "run with the land and shall be referenced in the deed for the property" (MOA IIIA7(b)).

However, the GCMA was destroyed this year, as a result of the approved amendment to the MOA. This April 2019 amendment laid out several provisions to be met by the SJTA, and a specific timeline to do so. These requirements include:

1. Acquire land within the Pinelands for creation and long-term maintenance of a new GCMA, of which 62 acres (the minimum area of potential habitat required for the Upland sandpiper) is already cleared, and located at least 50 meters from any structure or forest edge;

2. Enhance an approximately 12-acre site located adjacent to the Forest Preservation Area in the northeast quadrant of the airport for the Frosted elfin butterfly;
3. An initial payment of \$500,000 (due before any development approvals);
4. A resolution (due before any development approvals) from the SJTA Board committing to the remaining five annual payments of \$500,000 each to be paid no later than January 5<sup>th</sup> of each year, AND a timeframe for the acquisition (within 1 year) and creation (within 3 years) of the new GCMA, and enhancement of the habitat for the Frosted elfin butterfly (within 2 years);
5. A written agreement (due May 2019) from the Federal Aviation Administration (FAA) indicating that the FAA concurs with the expansion of the Forest Preservation Area to include the 12-acre enhanced Frosted elfin butterfly habitat, as well as a nearby area where a well-documented colony is located, on all subsequent layout plans for the airport;
6. Monthly written status reports to the Pinelands Commission commencing July 2019.

Additionally, several letters were sent from Pinelands Commission staff to SJTA requesting an Airport Layout Plan. The original MOA approved a 7-acre deicing pad, and those plans were not altered in the 2019 amendment. But the project currently under consideration is for a 12-acre deicing pad, so SJTA agreed to remove that 5-acre balance from the Auxiliary Development Area authorized by the MOA. An Airport Layout Plan clearly illustrating this change was first requested by your staff in March 2017, and the most recent letter in this application's file requesting the same thing was sent in May of this year. There was no reply or Airport Layout Plan in this application's file as of my file review on December 12, 2019.

The April 16, 2019 first amendment to the MOA specifically states that until the initial payment and SJTA Board resolution are received, no development activities will be approved by the Pinelands Commission. Additionally, the amendment states that "all development activities authorized by this Agreement or the February 26, 2004 MOA... shall immediately cease and these agreements shall be considered suspended in the event the [SJTA] fails to make any of the annual payments..., or fails to meet the time lines for either 1) the acquisition, creation and maintenance for the new off-airport Grassland Conservation and Management Area or 2) the enhancement and maintenance of the Frosted elfin butterfly habitat in the northeast quadrant of the Property."

In light of the fact that the 2004 MOA allowed for the destruction of critical habitat for 3 state-listed threatened and endangered species *only* under the condition of 290 acres of habitat creation that was to be protected into perpetuity, only to have THAT critical habitat destroyed a mere 15 years later, I urge the Commission to ensure that **every last requirement** set forth in the MOA amendment has been met before approving the construction of 12 acres of impervious surface at the airport: a proposal that already, in the planning stage, deviates from the MOA by being 5 acres larger than agreed upon.

Prior to your vote on this application, an annual payment must be received by January 5<sup>th</sup>, and status reports must have been received every month since July. The SJTA's Board resolution, and the written agreement from the FAA should **already** have been received by the Pinelands Commission, and in just a few months, in April, the acquisition of the new GCMA habitat must be complete. Plus, the Airport Layout Plan, compensating for 5 extra acres added to this deicing pad as compared to the original 7-acre proposal, must be received as requested repeatedly by your staff over the past two and a half years.

At the December 13, 2019 Pinelands Commission meeting, Stacey Roth stated, during discussion of this application, that SJTA "started in August but there's been a recent lapse" in the monthly reporting. She said "we remind them", which is absolutely outside of the responsibility of the Pinelands Commission. An applicant unable to uphold a clear obligation per a legal Memorandum of Agreement with a state agency without reminders should not be rewarded with a development approval.

The Pinelands Commission has already accommodated the South Jersey Transportation Authority by allowing non-compliance with the CMP in the original 2004 MOA, and then further non-compliance as well as a renegeing of the MOA terms by approving the 2019 amendment. We urge the Commission to not give another approval to SJTA unless they have fulfilled absolutely every one of their requirements under the new agreement.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Rhyon Grech". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Rhyon Grech

Policy Advocate

