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State of New Jersey

THE PINELANDS COMMISSION

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Chris Christie  
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Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

September 14, 2018

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 August 10, 2018 for your information.

Sincerely,

Teri Melodick  
Principal Clerical Assistant



PC1  
Enclosure: Minutes

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P750

PC2-52

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

MINUTES

**August 10, 2018**

Commissioners Present

Alan W. Avery Jr., Bob Barr, Giuseppe Chila, Jordan P. Howell, Ed Lloyd, Mark Lohbauer, William Pikolycky, Richard Prickett and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Craig Ambrose and Deputy Attorney General (DAG) Bruce Velzy.

Commissioners Participating by Phone

Candace Ashmun, Jane Jannarone and Paul E. Galletta.

Commissioners Absent

D'Arcy Rohan Green and Gary Quinn.

Chairman Earlen called the meeting to order at 9:34 a.m.

DAG Velzy read the Open Public Meetings Act Statement.

Executive Director Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 12 Commissioners who participated in the meeting.)

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



Election of the Vice-Chairman

Chairman Earlen said at this time the Commission needs to nominate and elect a Vice Chairman.

Vice Chair Galletta said that based on issues in his personal life, he will be stepping down as Vice Chair. He said it been a pleasure to serve and appreciated the opportunity. He nominated Commissioner Avery to serve as Vice Chairman. Commissioner Ashmun seconded the motion.

Commissioner Avery thanked Commissioner Galletta for serving as Vice Chair and said he would accept the nomination.

The Commission all voted in favor of Commissioner Avery serving as Vice Chair.

Committee Assignments

Chairman Earlen announced that Committee assignments would remain the same.

Minutes

Chairman Earlen presented minutes from the July 13, 2018 Commission meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Barr seconded the motion.

The July 13, 2018 Commission meeting minutes were adopted by a vote of 11 to 0. Commissioner Avery abstained from the vote.

Committee Chairs' Reports

Chairman Earlen provided an update on the July 24, 2018 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes of the May 18, 2018 meeting. The Committee recommended Commission certification of Egg Harbor Township Ordinances 12-2018 and 19-2018.

The Committee received a presentation on the Pinelands Infrastructure Trust Fund. Staff will be seeking input from the counties/ municipalities with sufficient remaining development potential in their Regional Growth Areas (RGA) as to their needs and will consider expanding funding projects beyond wastewater, refining the ranking criteria and developing a funding formula.

The Committee received an update on the 2004 Memorandum of Agreement (MOA) with the South Jersey Transportation Authority (SJTA) in preparation for a presentation by SJTA next month. During the next P&I meeting, SJTA will discuss its proposal to relocate critical bird habitat at the Atlantic City Airport away from the runway.

Executive Director's Reports

ED Wittenberg updated the Commission on the following:

- Staff met with the Communication Workers of America Local 1040 regarding contract negotiations.
- The joint site visit to inspect existing bird habitat at the Atlantic City Airport is scheduled for August 15, 2018. The following agencies will be participating in that site visit: the Federal Aviation Association (FAA), South Jersey Transportation Authority (SJTA), the New Jersey Department of Environmental Protection (NJDEP), Fish and Wildlife and the Pinelands Commission. SJTA will be attending the August 24<sup>th</sup> Policy and Implementation Committee meeting.

ED Wittenberg introduced new Commission employee Dane Ward, who joined the Science office in late July.

Director Larry Liggett updated the Commission on the following matters:

- Staff sent a letter out to counties and municipalities that outlined information about the Pinelands Infrastructure Trust Fund. Monies are only available for projects in Pinelands Regional Growth Areas. Because the letter did not generate much interest, staff has been contacting certain counties and municipalities by telephone. Staff spoke with the Atlantic County Utilities Authority and Egg Harbor Township which has a large Regional Growth Area. Egg Harbor Township has a number of road improvements projects that it would like to undertake.
- Staff met with Tabernacle Township officials to discuss a property owner's proposal to install a solar field at the former Haas mining site. The parcel is located in an infill area in the Preservation Area District. Staff has made suggestions about ordinance adjustments to the Township's infill area.

Director Chuck Horner provided information on the following Regulatory matters:

- Staff met with Woodland Township representatives on July 25, 2018, including its threatened and endangered species consultant, to discuss the town's interest in developing a site on Route 72. The parcel is located in an infill area that permits both residential and/or commercial development.

Chairman Earlen asked Director Horner to explain infill areas.

Director Horner said within the Preservation Area District are infill areas that were created to acknowledge pockets of existing development that were too small to be Pinelands Villages. He added an infill area is a zoning district that permits specific uses.

Chief Planner Susan Grogan added that three Pinelands municipalities have designated infill areas: Woodland, Shamong and Tabernacle townships. She said that most of the infill areas are small, with the exception of the Haas pit that Director Liggett mentioned and the Route 72 site in Woodland Township that Director Horner noted.

Director Horner continued his update:

- Staff met with Mullica Township officials on August 8, 2018 to discuss a violation matter stemming from the construction of a structure along the Mullica River. He said the development is in violation of the wetland and wetland buffers standards of the Comprehensive Management Plan and the Mullica Township Ordinance.
- Mullica Township is interested in placing a solar facility on a landfill.
- Staff has been receiving inquiries about growing marijuana and whether it is permitted in the Pinelands.
- Staff is currently reviewing the Heritage Minerals application, which is located in the Pinelands Nation Reserve and outside of the state-designated Pinelands Area in Manchester Township. The Commission has a Memorandum of Agreement (MOA) with the NJDEP through which the Commission staff provides comments regarding consistency of the development as related to the CMP. The NJDEP uses the Commission's comments as part of its review process.

Commissioner Avery asked about the status of the settlement for Heritage Minerals.

Ms. Stacey Roth said the settlement is still in effect, however the matter is currently with a magistrate judge in federal court. She said the Commission moved forward with rezoning a Forest Area to a Regional Growth Area as part of that settlement agreement. The applicant submitted a new application for the site proposing a great number of residential units. After many extensions to the settlement agreement, the NJDEP refused to extend the settlement agreement any further. The property was never deed restricted as required by the original settlement agreement. She added that she believes the magistrate judge is waiting for a decision to be made on the pending CAFRA (Coastal Area Facilities Review Act) permit.

Commissioner Avery said that Ocean County was required to amend its Water Quality Master Plan to designate the Heritage Minerals site as a sewered area. He asked if Manchester Township adopted an ordinance change consistent with the settlement agreement.

Chief Planner Grogan said the Township adopted an ordinance many years ago to recognize the settlement agreement. She added that more recently, Manchester Township asked the Commission to review and certify its Master Plan for the Pinelands National Reserve which is an optional process in the CMP.

Ms. Roth added that Manchester Township is not part of the litigation.

Communications Officer Paul Leakan updated the Commission on the following:

- The 2018 Summer Pinelands Short Course was a success with over 100 attendees. The tour of the Atlantic Blueberry Company's farm in Hammonton was very well received.
- The Pinelands Orientation for Newly Elected Officials held in combination with the Pinelands Municipal Council meeting had over 30 attendees.

- Staff has been working with Split Rock Studios, the exhibit fabricator, to ensure that the various interactive exhibits will function properly.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending approval of an application to clear 16.4 acres at the Bass River State Forest to improve the visibility from the fire tower.

DAG Velzy said three Commissioners circulated a memo by email on July 26, 2018. The memo presents a conflict with the Open Public Meeting Act and could not be included in the Commission packet because at the time it was circulated, the record for Application # 1990-0868.029 was closed. A copy of the email and memo will be attached to these minutes.

Commissioner Lohbauer made a motion to table Application # 1990-0868.029 until staff can meet with the NJDEP to discuss the alternatives to cutting down trees to restore visibility to the fire tower.

Chairman Earlen asked ED Wittenberg what would happen if the Commission chooses not to take action on the application.

ED Wittenberg said she has spoken to the NJDEP about delaying the application and they are not willing to request an extension. She said that if the Commission chooses not to take action or the resolution fails to have enough votes to carry the motion the application will be transmitted the Office of Administrative Law (OAL).

DAG Velzy said the CMP states that if the Commission fails to take an action the Executive Director's recommendation shall be referred to OAL for a hearing. He said its unclear how the litigation would proceed.

Commissioner Lohbauer said he is requesting that the application be put on hold to give staff and the applicant time to research alternate firefighting technologies that were raised by the public. He said he and two other Commissioner raised questions in two memos which were shared with this Commission. He said he believes there is a technology that can assist the Forest Fire Service that has not been addressed

Chairman Earlen said he understands Commissioner Lohbauer's position but this Commission needs to make a decision on the application today. He said its unfair to the applicant to not vote on the matter.

Commissioner Lohbauer said the Commission is an autonomous body and he is not going to be railroad into making a decision.

ED Wittenberg said she had spoken with the NJDEP about the memos and the department does not agree with the suggestions outlined in the memos.

Commissioner Lloyd said he believes Application # 1990-0868.029 violates the CMP. He read a portion of the CMP related to tree clearing. He said the Forest Fire Service can do

their job without clearing the trees surrounding the fire tower. He said he would prefer to table the application so additional work on the application can be done. He noted that 23 years ago the Forest Fire Service made a very similar application to clear 4.6 acres and that application did go to OAL. He said at OAL a settlement permitted the clearing of 2.7 acres.

Chairman Earlen asked for a second on the motion to table Application # 1990-0868.029. Commissioner Ashmun seconded the motion to table the application.

Before ED Wittenberg called the roll, Director Horner discussed how the staff administers the CMP forest clearing requirement. Director Horner indicated that when the staff reviews an application, the staff ensures that the proposed development meets all CMP standards and that any proposed forest clearing is the minimum necessary to accommodate the proposed development. If an application meets all CMP standards, the Commission staff does not require that an applicant further evaluate whether there are other feasible alternate to the proposed development that will require less forest clearing.

Commissioner Lloyd said staff is interpreting the CMP incorrectly. He said this Commission is here to protect the Pinelands. He supports tabling the application.

Ed Wittenberg said she is frustrated by the process. She said she had extensive conversations with the NJDEP and cannot share that information with the Commission. She said that an op-ed ran this morning about this very matter.

Commissioner Lohbauer said he believes tabling the application makes sense. He said he needs more information regarding the questions raised by the public, the alternative technologies to firefighting, the recent reduction to tree clearing and the cost analysis of the fire tower replacements compared to the tree cutting.

ED Wittenberg said that the reduction in acreage stemmed from a stakeholder process initiated by the NJDEP.

Commissioner Jannarone said she had to get off the call but agreed with Commissioner Lohbauer.

Ms. Stacey Roth reminded Commissioners that per Roberts rules tabling actually means to continue to another day. She added that the CMP states if the Commission fails to approve the Executive Directors report the matter is sent to OAL.

Commissioner Lohbauer amended his motion to table the application to a motion to continue discussion on Application # 1990-0868.029. Commissioner Ashmun seconded the motion.

ED Wittenberg called the roll.  
Commissioner Ashmun yes  
Commissioner Avery no

Commissioner Barr no  
Commissioner Chila no  
Commissioner Galletta no  
Commissioner Howell yes  
Commissioner Lloyd yes  
Commissioner Lohbauer yes  
Commissioner Pikolycky no  
Commissioner Prickett yes  
Chairman Earlen no

The motion to continue the application did not pass.

Chairman asked for a motion on Application # # 1990-0868.029

Commissioner Avery moved the adoption of a resolution Approving With Conditions an Application for Public Development and Certificate of Appropriateness (Application Number 1990-0868.029) (See Resolution # PC4-18-22A). Commissioner Barr seconded the motion.

Commissioner Avery said it was his understanding that both the detection of fire and command center activities happen at the Bass River State Forest Fire Tower.

Director Horner confirmed that fire spotting and coordination efforts of the forest fire service take place at the Bass River State Forest Fire Tower.

Director Horner suggested adding language to the resolution that recognizes the Commission's request for Commission staff to meet with NJDEP staff to address questions raised during the discussion of this application related to forest fire fighting efforts and directs staff to report back with answers.

Commissioner Lloyd said he doesn't think that is necessary today but he is interested in meeting with the forest fire service to discuss how they plan to meet their firefighting needs while remaining consistent with the CMP. He said he believes the use of cameras will solve the command center activities in addition to 24/7 monitoring of the forest

Commissioner Avery said there is value in camera technology in terms of fire detection, however the forest should be cleared for the command aspect associated with the Bass River fire tower. He said the area in question is a heavily forested and the trees to be removed are non-native. He said he does not want to put the first responders fighting the fire or the public in danger. He said this application does meet the standards of the plan.

Commissioner Lohbauer said he supports the forest fire service and all he is requesting is additional information regarding the use of camera technology. He said the public raised the same concerns now as they did back in 1995.

ED Wittenberg said she spoke with the Assistant Commissioner of Natural and Historic Resources about the cameras in Monmouth and Ocean Counties. She said they were installed a water tower was built in front of fire tower which prohibited views. She said she was told that the cameras have not been successful. She added the forest fire service directs firefighting activities from the Bass River fire tower.

DAG Velzy reminded Commissioners that although the conversation related to this application is helpful the decision needs to be limited to the June 22, 2018 Executive Director's report.

Commissioner Lloyd said its hard not to factor in the discussion that has taken place.

Chairman Earlen said its unfair to the applicant to require different information at this point, not just this applicant, but any applicant. If this Commission wants to require that an applicant submit different information we need to change the rules. He said we preserve and protect the Pinelands by enforcing the CMP. He added that he agrees with Vice Chairman Avery's points. He said the forest fire service is the expert and they determined that trees need to be cleared surrounding the fire tower.

Commissioner Ashmun said this application needs additional work before its approved.

Commissioner Lloyd said the CMP is very clear related to protecting the forest. He added that just because the CMP was interpreted a certain way in the past does not mean the Commission needs to continue doing it that way.

Commissioner Prickett said he would like to see a long term plan to manage the forested area around the fire tower developed in conjunction with the NJDEP and the forest fire service. He said he would also like to see rotational clear cutting so the landscape does not suffer from a dramatic change. He said rotational cutting would be beneficial to species living in the forest. He suggested that a survey be undertaken for old growth trees.

The Chairman requested that the ED call the Roll

Commissioner Ashmun no  
Commissioner Avery yes  
Commissioner Barr yes  
Commissioner Chila yes  
Commissioner Galletta yes  
Commissioner Howell abstain  
Commissioner Lloyd abstain  
Commissioner Lohbauer abstain  
Commissioner Pikolycky yes  
Commissioner Prickett abstain  
Chairman Earlen yes

The Commission failed to adopt the resolution.

Chairman Earlen asked about the next steps.

DAG Velzy said this is an unprecedented action which will need to be sorted out.

Commissioner Galletta said he could no longer participate in the meeting.

Chairman Earlen presented a resolution recommending approval of three public development applications (demolition of the Grist Mill Lean-to at Batsto Village, installation of an elevated solar panel canopy on a parking area at Joint Base McGuire-Dix-Lakehurst and the reconstruction of the Carol Ida Dam in Medford.)

Commissioner Lohbauer said he was pleased that the solar application is being proposed over a parking lot.

Commissioner Prickett said he hopes that the Lean-to at the Grist Mill can be restored in the future.

Commissioner Ashmun suggested that each Public Development application be acted on separately rather than grouped together.

Commissioner Lloyd said the applications are grouped together to be more efficient.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1985-0160.011, 1985-1053.008 & 1989-0781.005) (See Resolution # PC4-18-23). Commissioner Lloyd seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen presented a resolution approving two Waivers of Strict Compliance, both for the construction of single family dwellings.

Commissioner Lloyd moved the adoption of a resolution Approving With Conditions Applications for Waivers of Strict Compliance (Application Numbers 2003-0456.001 & 2004-0352.001) (See Resolution # PC4-18-24). Commissioner Lohbauer seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen presented a resolution denying an application for a Waiver of Strict Compliance.

Commissioner Lloyd moved the adoption of a resolution Denying an Application for a Waiver of Strict Compliance (Application Number 2007-0398.001)(See Resolution # PC4-18-25). Commissioner Ashmun seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Planning Matters

Chairman Earlen presented a resolution to certify Egg Harbor Township Ordinances 12-2018 and 19-2018.

Commissioner Lloyd moved the adoption of a resolution Issuing an Order to Certify Ordinances 12-2018 and 19-2018, Amending Chapter 225 (Zoning) of the Code of Egg Harbor Township (See Resolution # PC4-18- 26). Commissioner Barr seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0. Commissioner Howell abstained from the vote.

Public Comment on Public Development Applications and Items where the record is open  
No one from the public spoke.

Ordinances Not Requiring Commission Action

Chairman Earlen asked if any Commissioners had questions regarding the ordinances not requiring Commission action:

- Berkeley Township Ordinance 18-22-OAB
- Egg Harbor Township Ordinance 34-2018
- Hamilton Township Ordinance 1879-2018
- Lacey Township Ordinance 2018-20
- Waterford Township Ordinance 2018-13
- Weymouth Township Ordinance 563-201
- Woodbine Borough Ordinance 574-2018

No members of the Commission had questions.

Other Resolutions

Chairman Earlen presented a resolution recommending approval of the Fiscal Year (FY) 2019 Budgets.

Commissioner Ashmun moved the adoption of a resolution To Adopt the Pinelands Commission's Fiscal Year 2019 Budgets for the Operating Fund, the Kirkwood Cohansey Aquifer Assessment Study Fund, Katie Trust Fund and the Pinelands Conservation Fund (See Resolution # PC4-18-27). Commissioner Lohbauer seconded the motion.

ED Wittenberg said the FY 2019 consists of four budgets, and the state appropriation increased by 150,000. She said the state supplemental fund has remained the same this year and does not cover the fringe benefit costs that continue to increase. She said application fees were consistent with the budgeted amount last year. Applications fees are already strong this fiscal year. She added that the grants line item is higher because of two

grants the Commission will be participating in. She proceeded to review the Kirkwood Cohansey Budget, which may be depleted this fiscal year. She reviewed the goals of the Katie Trust Fund. She reviewed the Pinelands Conservation Fund. Lastly, she reviewed initiatives for FY 19. See the budget presentation slides attached to the minutes for further details.

Commissioner Avery said the Personnel and Budget Committee was briefed on the FY 19 budget in June and offered its full support.

The Commission adopted the resolution by a vote of 10 to 0.

Chairman Earlen presented a resolution recommending approval of the 2017 Annual Report.

Commissioner Lohbauer moved the adoption of a resolution To Approve the New Jersey Pinelands Commission's 2017 Annual Report (See Resolution # PC4-18-28).  
Commissioner Prickett seconded the motion.

Commissioner Prickett asked about the distribution of the Annual Report.  
Mr. Leakan said the report is posted to the website and will be shared with the Pinelands Municipal Council.

The Commission adopted the resolution by a vote of 10 to 0.

#### General Public Comment

Carol Bitzberger of Bass River Township questioned if the public was allowed to be involved in the Office of Administrative Law process. She said she was able to view a link of the Oregon forest utilizing camera technology.

DAG Velzy said his office will look into the role of the public as the next steps are determined regarding Application # 1990-0868.029.

Rose Sweeney of Bass River Township said she appreciated the conversation between the Commissioners about the Bass River Forest fire tower application and hopes the delay will allow for discussions of other fire prevention measures.

Commissioner Ashmun signed off at 11:27 a.m.

Jeff Tittel of the Sierra Club said thermal imaging can detect hot spots in a forest better than a human eye can spot smoke. He said the Commission should have worked out a compromise on Application # 1990-0868.029. He said growing marijuana in greenhouses has a number of negative environmental impacts, including: the use of water and energy and production of air and ground pollution. He suggested the Commission create a sub-committee to look at marijuana growing facilities. He asked about the Commission's efforts to reduce the effects of climate control.

Katie Smith of the Pinelands Preservation Alliance distributed a letter dated August 2, 2018 (see attached) regarding the Woodmansie resource extraction application. She said the Commission should require a threatened and endangered species survey regardless of the deed restriction. She also said the mine is not in compliance with the CMP's restoration standards based on arials she viewed. As for the Heritage Minerals site, she said the NJDEP recently issued a letter to the applicant raising the following concerns: threatened and endangered species, impervious coverage and wet borrow pit regulations.

Emile DeVito of the New Jersey Conservation Foundation said he appreciates the Commission's efforts to find the best outcome for the Woodmansie mine site but he said a deed restriction will not work. He said he was shocked to learn that years after the Heritage Minerals settlement agreement the land has still not been deed restricted. He said the property on Route 72 owned by Woodland Township is almost entirely threatened and endangered bird habitat and the parcel should be purchased by the New Jersey Natural Lands Trust.

Margit Meissner-Jackson, Acting Chair of Ocean County Sierra Club, said when trees are cut in the Pinelands it loosens the soil and the soil eventually washes down into the Barnegat Bay. She said it is causing problems for Viking Yacht in New Gretna. She raised concerns about running out of water. She said it is unknown how many gallons are currently in the Kirkwood Cohansey aquifer.

Jay Mounier of Franklin Township said he has been attending meetings at the Commission for quite a while. He said over 10 years ago the Commission started allowing Commissioners who could not attend a meeting to participate by phone. He noted that Commissioner Ashmun said she could not hear several times today. He recommended that the Commission either fix the phone system or not permit Commissioners to participate by telephone.

#### Other matters

Chairman Earlen agreed with Mr. Mounier's assessment of the phone system.

Commissioner Lloyd said he also agreed with Mr. Mounier, and agreed it is difficult to hear while participating by phone. He asked if watching the live stream of the meeting would help.

Commissioner Howell said he tried the live stream while participating by phone during the July Commission meeting and there is a two to three second delay.

Commissioner Lloyd asked ED Wittenberg for an update on the Woodmansie mine application. He added that only the Commissioners who attended the July P&I Committee meeting heard the information.

ED Wittenberg said there is no new information to report regarding the Woodmansie mine application since the P&I Committee Meeting. She said she would provide an overview of

the application for the benefit of all Commissioners. She said an application was submitted to mine a 40-acre portion of the Woodmansie site in Woodland Township. She said the applicant is required to meet the environmental standards of the CMP in order to continue to mine the site. The applicant surveyed the 40 acres and found no threatened and endangered species. She said rather than have the applicant continue to apply piece by piece and rather than use a habitat conservation plan, staff opted to offer a larger piece for the applicant to mine and a permanent deed restriction on the remainder of the parcel.

Chairman Earlen said if staff needs assistance related to resource extraction including deed language, Commissioners can offer guidance.

Commissioner Prickett said he has been conducting his own research on the loblolly pine tree. He said he found a very old article that stated the loblolly reaches its northern limit in Cape May County. He also said the loblolly pine establishes diversity in the forest.

Commissioner Avery said years ago there were hours of debate that spanned months, over whether the loblolly should be considered a native species. The Commission ultimately voted that loblolly pines were not native to the Pinelands.

Commissioner Earlen said the Commission will be meeting in closed session but will not be taking any action.

#### Resolution to Retire into Closed Session

DAG Velzy read a resolution to enter into closed session to discuss a personnel matter and to provide advice on anticipated litigation.

Commission Barr made a motion to enter into closed session. Commissioner Avery seconded the motion. The Commission agreed to retire into closed session by a vote of 9 to 0, beginning at 12:02 p.m.

#### Return to Open Session

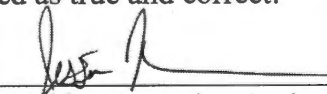
The Commission entered back into open session at 1:46 p.m.

DAG Velzy said that in closed session the Commission discussed litigation with an employee and compliance with the OPMA. No action was taken.

#### Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Prickett seconded the motion. The Commission agreed to adjourn at 1:48 p.m.

Certified as true and correct:

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

Date: August 23, 2018

**From:** Edward Lloyd  
**Sent:** Thursday, July 26, 2018 8:57 PM  
**To:** Sean W. Earlen; Wittenberg, Nancy  
**Cc:** Mark Lohbauer; Rick Prickett  
**Subject:** July 26, 2018 memo regarding the tree clearing proposal

TO: Sean Earlen, Nancy Wittenberg  
COPY: Rick Prickett, Mark Lohbauer  
BC: Pinelands Commissioners  
SUBJECT: Bass River Fire Tower application

Commissioners Prickett and Lohbauer submitted an earlier memo to all Commissioners on the above application prior to our July Commission meeting. Since then, we have taken the opportunity to do further research about it. We would like to share what we have learned with you and the other Commissioners. We ask that the attached memo be included in the Commissioners' packets for the upcoming meeting on August 10th, so they may consider this additional information when we review that application. We are blind copying all Commissioners so that we can discuss this memo at the August 10 Commission meeting and do not inadvertently violate the Open Public Meetings Act by using the "reply all" option. I had difficulty attaching two aerial views referenced in the memo. We will bring hard copies of the aerial view tomorrow so that they can be included in the Board packet.

Thank you.

Ed Lloyd  
Mark Lohbauer  
Rick Prickett

To: Sean Earlen, Chairman  
Nancy Wittenberg, Executive Director

Bcc. Members of the Pinelands Commission

Note: We are blind copying all Commissioners so that we can discuss this memo at the August 10 Commission meeting and do not inadvertently violate the Open Public Meetings Act by using the "reply all" option.

From: Commissioners Lloyd, Lohbauer, and Prickett

Re: Application Number 1990-0868.029/NJ State Forest Fire Service, Bass River Township, Preservation Area District, Clearing of 16.4 acres of trees to restore visibility from the Bass River State Forest fire tower.

Date: July 26, 2018

We expect that this application will be on the agenda of the Pinelands Commission for approval on August 10, 2018. The application proposes to clear-cut 16.4 acres of Bass River State Forest to restore visibility to the 86-foot tall fire tower in the forest. The application notes that tall stands of trees have grown above the height of the tower, and obscure views to the north, east, and south of the tower, hindering fire detection. The applicant proposes to clear-cut those trees (including shortleaf pines that DEP is working to expand in the Pinelands) to restore a full 360° view of the horizon around the tower. Several dozen commenters have opposed the clear-cutting, and contend that other means are available to the applicant to restore (and even enhance) views for fire detection.

We recognize the paramount importance of the fire detection service provided by the applicant, and the critical need for unobscured views to provide that service. We also recognize that the applicant has relied on its system of staffed fire towers for early wildfire detection extending as far back as the creation of the Forest Fire Service in 1906. We note that the applicant has applied to the Pinelands Commission in the past in order to clear cut trees that obstruct views from their towers in the Pinelands; in fact, the Commission approved an application from the Service in 1995 to clear-cut 4 acres around the same tower that is the subject of this application. We know that with each clear-cutting effort, habitat for plant and animal species—some of those threatened or endangered species—is destroyed. We believe that it is our duty as Commissioners to balance the needs of the applicant, with our obligation to preserve and protect forests in the Preservation Area, and the habitat within them. For that reason, we suggest that the Service may be able to accomplish the necessary fire detection in the Pinelands Preservation Area equally effectively without clear-cutting 16.4 acres of trees.

The New Jersey State Police own and operate a 240-foot communications tower at their Bass River State Police Station located at milepost 60.3 of the Garden State Parkway. See attached Google Earth view labeled NJSP Comm Tower GSP 60.3. The NJSP tower is located 0.48 miles south of the Bass River State Park fire tower which is the subject of the application before the Commission. See attached Google Earth view labeled Bass River FT to NJSP CT 0.48 miles.pdf.

We believe that placing two video cameras on the NJSP Communications Tower would fully provide the fire detection service that the 86-foot Bass River State Forest tower provides without any obstruction of visibility by trees. The Service could install the cameras at a height of approximately 130' to 200' above the ground, and below the current communications systems array on the NJSP Tower just one half mile from the Bass River tower. We believe that such a camera system at the appropriate height (far above the existing 86' tall Bass River State Forest tower) would address the needs that prompted the application to the Pinelands Commission.

Further, we note that the applicant has over 15 months of active experience using a video camera system for the detection of wildfires in New Jersey. In April, 2017 they installed video camera arrays at the Monmouth County Sheriff's complex, and in Brick Township Police Department. They installed both of these systems on public safety communications towers, and the systems are directly connected to the N.J. Forest Fire Service's Division B headquarters building in New Lisbon. We understand that adding more camera systems to the current installations would make the system more efficient, and better able to justify an employee position to observe the multiple camera feeds into Division B.

Moreover, we note that the installation of such video camera systems have obviated the need for staffed fire observation towers in the State of Oregon, without any loss of effective detection of wildfires, and management of ground resources during a wildfire. Finally, we also note that the installation of one camera system from the vendor now under contract with N.J. Forest Fire Service is about \$40,000.

We are writing to request that the the Pinelands Commission staff work with the Fire Service to explore the possibility of locating cameras on the NJSP Communications Tower to avoid the necessity to clear-cut trees in the Pinelands. We do not believe that the applicant has justified the removal of native species, nor the removal of native plant and animal habitat for the purpose of fire detection, without first examining other viable, less invasive options.

We further recommend that the Commission ask the N.J. Forest Fire Service consider deferring its application to the Pinelands Commission to clear-cut the 16.4 acres of trees near the Bass River State Forest fire tower until the Commission and the Service have thoroughly explored an alternate course of action.

We also believe that the information presented above demonstrates that there is no need to clear trees to accommodate the fire detection services provided by the fire tower under N.J.A.C. 7:50-6.23(a) of the Pinelands Comprehensive Management Plan (CMP). N.J.A.C. 7:50-6.23(a) provides that "all clearing . . . shall be limited to that which is necessary to accommodate an activity, use, or structure which is permitted by this Plan." Based upon the foregoing, we do not

believe that any clearing is "necessary to accommodate" the fire detection activity sought in the permit application. We also believe that pursuant to this CMP provision, it is practical to avoid clearing any wooded areas.

We encourage the Pinelands Commission staff and the N.J. Forest Fire Service to meet to facilitate joint proposals to be incorporated into a State Forest Management Plan, and an East Plains Fire Management Plan.

Finally, we request that the Pinelands Commission staff include this memorandum in the Board packet for the August 10, 2018 meeting of the Pinelands Commission.

Thank you for your consideration of these matters.

Pinelands Commission  
Fiscal Year 2019  
Budgets  
August 10, 2018

**BUDGETS**

- Operating Fund - \$5,915,074
- Kirkwood-Cohansey Aquifer Assessment Study Fund - \$115,270
- Katie Trust Fund - \$15,000
- Pinelands Conservation Fund - \$863,397

## Kirkwood-Cohansey Expenditures

	FY16 Audited	FY17 Unaudited	FY18 Unaudited	FY19 Anticipated
Salary and Wages	\$31,490	\$37,100	\$32,100	\$26,000
Fringe Benefits	\$17,475	\$17,066	\$16,692	\$13,260
Professional Services	\$175,000	\$98,000	\$114,000	\$70,000
Other	\$2,000	\$950	\$1000	\$6,010
Total Expenditures	\$225,965	\$153,116	\$163,792	\$115,270
Fund Balance	\$225,815	\$152,816	\$162,792	\$114,270

## Katie Fund Expenditures

	FY18 Unaudited	FY19 Anticipated
Ground Supplies	\$9,638	\$4,000
Professional Services	\$10,000	\$10,000
Acquisitions - Furniture	\$1,000	\$1,000
Total Expenditures	\$20,638	\$15,000
Fund Balance	\$20,638	\$15,000

## Salary and Wages Expenditures

Current Staff (43 FTEs; 23 unfunded FTEs)	
43 Full time employees	\$3,325,731
Estimated Overtime	1,000
	<u>\$3,326,731</u>

Operating Fund Budget	\$3,031,731
Kirkwood Cohansey Study Budget	26,000
Pinelands Conservation Fund Budget	
Land Acquisition	5,000
Conservation Planning & Research	157,000
Community Planning & Design	62,000
Education & Outreach	45,000
	<u>\$3,326,731</u>

## FY2019 Initiatives

- Completion of the Visitors Center and Katie Garden
- Rules:
  - Propose: Black Run, Kirkwood Cohansey/Water Supply, PDC Enhancement
  - Review Forest and Rural Development Area cluster rules
- Pinelands Infrastructure Trust Fund
- Long Term Economic Monitoring Program – new website/revised indicators/special studies
- Cultural Resources
  - Field School in Shamong with the Archaeological Society of New Jersey
- Barnegat Bay Stormwater Research Project





**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-18- 23

**TITLE:** Approving With Conditions Applications for Public Development (Application Numbers 1985-0160.011, 1985-1053.008 & 1989-0781.005)

Commissioner Lohbauer moves and Commissioner Lloyd seconds the motion that:

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

**1985-0160.011**

<b>Applicant:</b>	<b>NJ Department of Environmental Protection</b>
Municipality:	Washington Township
Management Area:	Pinelands Preservation Area District
Date of Report:	July 19, 2018
Proposed Development:	Demolition of the Grist Mill Lean-To, 50 years old or older, at Batsto Village;

**1985-1053.008**

<b>Applicant:</b>	<b>NJ Army National Guard</b>
Municipality:	Springfield Township Borough of Wrightstown
Management Area:	Pinelands Military/Federal Installation Area
Date of Report:	July 19, 2018
Proposed Development:	Installation of a 17,856 square foot elevated solar panel canopy above an existing stone parking area; and

**1989-0781.005**

<b>Applicant:</b>	<b>Medford Township</b>
Municipality:	Medford Township
Management Area:	Pinelands Preservation Area District Pinelands Special Agricultural Production Area
Date of Report:	July 19, 2018
Proposed Development:	Reconstruction of Carol Ida Dam.

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

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for each of the proposed developments; and

WHEREAS, the Pinelands Commission hereby determines that each of the proposed public developments conform 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.



State of New Jersey

THE PINELANDS COMMISSION

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PHILIP D. MURPHY  
Governor

SHEILA Y. OLIVER  
Lt. Governor

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

SEAN W. EARLEN  
Chairman  
NANCY WITTENBERG  
Executive Director

July 19, 2018

William White (via email)  
NJ Department of Environmental Protection  
31 Batsto Road  
Hammonton, NJ 08037

Re: Application # 1985-0160.011  
Block 8, Lot 1  
Washington Township

Dear Mr. White:

The Commission staff has completed its review of this application for demolition of the Grist Mill Lean-To, 50 years old or older, at Batsto Village. 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 August 10, 2018 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, Washington Township Planning Board (via email)  
Washington Township Construction Code Official (via email)  
Secretary, Burlington County Planning Board (via email)





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

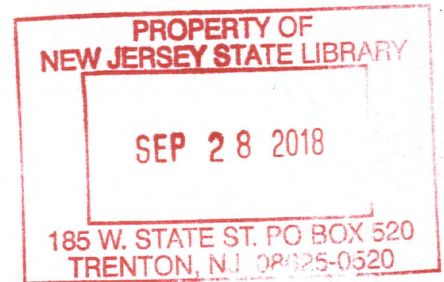
SEAN W. EARLEN  
 Chairman  
 NANCY WITTENBERG  
 Executive Director

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

**PUBLIC DEVELOPMENT APPLICATION REPORT**

July 19, 2018

William White (via email)  
 NJ Department of Environmental Protection  
 31 Batsto Road  
 Hammonton, NJ 08037



Application No.: 1985-0160.011  
 Block 8, Lot 1  
 Washington Township

This application proposes demolition of the Grist Mill Lean-To, 50 years old or older, at Batsto Village located on the above referenced 1962.4 acre parcel in Washington Township.

The lean-to occupies 460 square feet and is an open sided roof structure supported by approximately six posts and attached to an existing building.

**STANDARDS**

The Commission staff has reviewed the proposed demolition for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.22)

The parcel is located in the Pinelands Preservation Area District. An application to the Commission is required for the demolition of any structure 50 years old or older. The CMP permits the demolition of structures anywhere in the Pinelands Area.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

The proposed demolition was reviewed by both the Commission staff cultural resource planner and the New Jersey Historic Preservation Office (NJHPO).

The Grist Mill Lean-To is located in the Batsto Historic Village. The Batsto Historic Village is listed on both the State and National Registers of Historic Places.



Philip D. Murphy  
Governor

Sheila Y. Oliver  
Lt. Governor

## State of New Jersey

THE PINELANDS COMMISSION

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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

### 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 by the 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 at the Commission's offices no later than 4:00 PM on August 6, 2018 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.



# State of New Jersey

## THE PINELANDS COMMISSION

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

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SEAN W. EARLEN  
Chairman  
NANCY WITTENBERG  
Executive Director

July 19, 2018

Michael Lyons, Col., LG (via email)  
NJ Army National Guard  
NJARNG 101 Eggerts Crossing Road  
Lawrenceville, NJ 08648

Re: Application # 1985-1053.008  
Block 1802, Lot 1  
Springfield Township  
Block 201, Lot 1  
Borough of Wrightstown

Dear Mr. Lyons:

The Commission staff has completed its review of this application for installation of a 17,856 square foot elevated solar panel canopy above an existing stone parking area. 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 August 10, 2018 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, Springfield Township Planning Board (via email)  
Springfield Township Construction Code Official (via email)  
Secretary, Borough of Wrightstown Planning Board (via email)





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Lt. Governor

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

SEAN W. EARLEN

Chairman

NANCY WITTENBERG

Executive Director

### PUBLIC DEVELOPMENT APPLICATION REPORT

July 19, 2018

Michael Lyons, Col., LG (via email)  
NJ Army National Guard  
NJARNG 101 Eggerts Crossing Road  
Lawrenceville, NJ 08648

Application No.: 1985-1053.008  
Block 1802, Lot 1  
Springfield Township  
Block 201, Lot 1  
Borough of Wrightstown

This application proposes installation of a 17,856 square foot elevated solar panel canopy above an existing stone parking area at Joint Base McGuire Dix Lakehurst located on the above referenced 66.14 acre parcel in Springfield Township and the Borough of Wrightstown.

The proposed solar energy facility will provide power to an existing New Jersey Army National Guard building located on the parcel.

### STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

#### Land Use (N.J.A.C. 7:50-5.29)

The Pinelands Protection Act designates the boundaries of the 938,000 acre Pinelands Area. Within the boundaries of the Pinelands Area, the Pinelands Protection Act also designates the 366,000 acre Pinelands Preservation Area and the 572,000 acre Pinelands Protection Area. The CMP then establishes Management Areas such as Regional Growth Management Areas, Rural Development Management Areas and Military and Federal Installation Management Areas that overlay the entire Pinelands Area.

The parcel subject of this application is located in a Military and Federal Installation Management Area. The CMP permits any proposed use associated with the function of a federal installation in a Military and Federal Installation Management Area provided four conditions are met. The first condition is that, where feasible, proposed development in a Military and Federal Installation Management Area shall be located in the Pinelands Protection Area portion of the Pinelands Area. The proposed solar energy

approvals.

### 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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SEAN W. EARLEN  
Chairman  
NANCY WITTENBERG  
Executive Director

July 19, 2018

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

Re: Application # 1989-0781.005  
Jackson Road  
Block 6802, Lot 1  
Medford Township

Dear Ms. Burger:

The Commission staff has completed its review of this application for reconstruction of Carol Ida Dam. 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 August 10, 2018 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)  
Chris Noll, PE, PP, CME (via email)





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SEAN W. EARLEN  
Chairman  
NANCY WITTENBERG  
Executive Director

## PUBLIC DEVELOPMENT APPLICATION REPORT

July 19, 2018

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

Application No.: 1989-0781.005  
Jackson Road  
Block 6802, Lot 1  
Medford Township

This application proposes reconstruction of Carol Ida Dam located within the above referenced right-of-way in Medford Township. The Jackson Road right-of-way, containing an existing sand road, crosses the crest of the dam embankment. The proposed improvements to the dam within the Jackson Road right-of-way include the replacement of the existing weir, construction of a 25 square foot concrete pad, regrading of the dam embankment and the placement of rip-rap on both sides of the dam.

An existing pipe passes under the dam and discharges water from Lady Lake onto Block 6802, Lot 1. This water discharge has created soil erosion on Block 6802, Lot 1. To address this existing soil erosion, the application also proposes to place approximately 180 square feet of rip-rap on Block 6802, Lot 1.

The Pinelands Development Credits (PDCs) allocated to Block 6802, Lot 1 have been severed and a PDC deed restriction has been imposed on the lot limiting the future use of the lot to agriculture, forestry, and low intensity recreational uses. The proposed rip-rap on Block 6802, Lot 1 is addressing a pre-existing soil erosion condition on the lot.

### STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

#### Land Use (N.J.A.C. 7:50-5.22 & 5.25)

The proposed development will be located partially in the Preservation Area District and partially in a Special Agricultural Production Area. The CMP permits the reconstruction of existing structures in the Pinelands Area.

5. Prior to the construction of any portion of the proposed development which will result in the disturbance of any wetland area, a Freshwater Wetland Permit shall be obtained pursuant to the New Jersey Freshwater Wetlands Protection Act.
6. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.

### 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.



**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-18- 24

**TITLE:** Approving With Conditions Applications for Waivers of Strict Compliance (Application Numbers 2003-0456.001 & 2004-0352.001)

Commissioner Hayel moves and Commissioner Lehbauer seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed each of the Findings of Fact, Conclusion and the recommendation of the Executive Director that the following applications for Waivers of Strict Compliance be approved with conditions:

**2003-0456.001**

**Applicant:** Kenny Austin  
**Municipality:** Lacey Township  
**Management Area:** Pinelands Village  
**Date of Report:** July 20, 2018  
**Proposed Development:** Single family dwelling; and

**2004-0352.001**

**Applicant:** Lisa Gassert  
**Municipality:** Evesham Township  
**Management Area:** Pinelands Regional Growth Area  
**Date of Report:** July 20, 2018  
**Proposed Development:** Single family dwelling.

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

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director for each of the proposed developments; and

WHEREAS, the Pinelands Commission hereby determines that the requested Waivers conform to the standards for approving an application for a Waiver of Strict Compliance based on extraordinary hardship as set forth in N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63 and N.J.A.C. 7:50-4.65 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.



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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

SEAN W. EARLEN  
Chairman  
NANCY WITTENBERG  
Executive Director

REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE

July 20, 2018

Kenny Austin  
2514 Hurry Road  
Bamber Lake, NJ 08731

Re: Application # 2003-0456.001  
Block 4108, Lot 5  
Lacey Township

Dear Mr. Austin:

The Commission staff has completed its review of the above referenced application for a Waiver of Strict Compliance ("Waiver") proposing the development of a single family dwelling on the above referenced parcel. 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 August 10, 2018 meeting.

FINDINGS OF FACT

This application is for the development of a single family dwelling served by an alternate design onsite septic system on the above referenced 0.46 acre parcel in Lacey Township. The parcel is located in a Pinelands Village Management Area and in Lacey Township's Village Residential (VR) zoning district. In this zoning district, Lacey Township's certified land use ordinance establishes a minimum lot size of 1.0 acre to develop a single family dwelling that is served by an alternate design onsite septic system.

As no Commission accepted alternate design onsite septic system will meet the two parts per million average nitrogen concentration in the groundwater at the property line of the 0.46 acre parcel, the applicant is requesting a Waiver from the groundwater quality standard contained in the CMP (N.J.A.C. 7:50-6.84(a)5iv).

The parcel has been site inspected by a member of the Commission's staff. Additionally, the appropriate resource capability maps and data available to the staff have been reviewed.

On January 4, 2016, the Lacey Township Zoning Board of Adjustment adopted a Resolution for Appeal # 15-16 approving a residential lot size variance to develop a dwelling on the parcel.



\* 2 0 0 3 0 4 5 6 . 0 0 1 \*

974.905 P758 01/10/2018

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling will be the sole principal use of the entire contiguous parcel. A single family dwelling can be developed on the parcel without violating any of the criteria contained in N.J.A.C. 7:50-4.65(b).

Only if the parcel is developed in accordance with the conditions recommended below will the adverse impacts on groundwater quality be minimized.

### PUBLIC COMMENT

The applicant has provided the requisite public notices. Public notice to all property owners within 200 feet of the parcel was completed on March 30, 2018. Newspaper public notice was completed on April 11, 2018. The application was designated as complete on the Commission's website on May 22, 2018. The Commission's public comment period closed on July 13, 2018. No public comment was received by the Commission regarding this application.

### CONCLUSION

The CMP (N.J.A.C. 7:50-4.62) sets forth the standards which must be met before a Waiver can be approved. The CMP (N.J.A.C. 7:50-4.62(a)) requires that for a Waiver application to be approved based on extraordinary hardship, the applicant must demonstrate that the conditions of either N.J.A.C. 7:50-4.63(a) or (b) have been met.

N.J.A.C. 7:50-4.63(a) sets forth five conditions which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified types of development is a single family dwelling on a parcel within a Regional Growth Area, Pinelands Town or Pinelands Village which is at least 20,000 square feet, excluding road rights-of-way, in size and is not served by a centralized waste water treatment system. This application is for a Waiver from the groundwater quality standards contained in N.J.A.C. 7:50-6. The applicant is proposing to develop a single family dwelling served by an alternate design onsite wastewater treatment system on a 0.46 acre (20,038 square foot) parcel. The parcel contains more than 20,000 square feet, excluding road rights-of-way and is located in a Pinelands Village Management Area. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1v.

The second condition is that the parcel includes all contiguous land in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. Since the parcel includes all such contiguous land, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)2.

The third condition is that the proposed use will be the sole principal use on the entire contiguous parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c). As the proposed single family dwelling will be the sole principal use on the parcel, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)3.

The fourth condition is that all necessary municipal lot area and density variances have been obtained if the parcel is located in a municipality whose master plan and land use ordinance have been certified by the Pinelands Commission. Lacey Township's master plan and land use ordinance have been certified

by the Pinelands Commission. On January 4, 2016, the Lacey Township Zoning Board of Adjustment adopted a Resolution for Appeal # 15-16 approving a residential lot size variance to develop a dwelling on the parcel. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

The fifth condition is that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver which permits a parcel to be developed unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP and will not result in a substantial impairment of the resources of the Pinelands Area. N.J.A.C. 7:50-4.65(b) sets forth the circumstances which do not comply with N.J.A.C. 7:50-4.65(a). With the conditions recommended below, the proposed development will not violate any of the circumstances contained in N.J.A.C. 7:50-4.65(b). As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)5.

Since the applicant meets all five conditions set forth in N.J.A.C. 7:50-4.63(a), the applicant has demonstrated that an extraordinary hardship exists pursuant to N.J.A.C. 7:50-4.62(a).

As required by N.J.A.C. 7:50-4.62(b), the proposed dwelling will not result in substantial impairment of the resources of the Pinelands or be inconsistent with the provisions of the Pinelands Protection Act, the Federal Act or the CMP in accordance with the criteria set forth in N.J.A.C. 7:50-4.65.

As required by N.J.A.C. 7:50-4.62(c) and with the conditions recommended below, the proposed dwelling will not involve trespass or create a public or private nuisance by being materially detrimental or injurious to other property or improvements in the area in which the parcel is located, increase the danger of fire or endanger public safety.

The CMP (N.J.A.C. 7:50-4.62(d)) requires that the Waiver only grant the minimum relief necessary to relieve the extraordinary hardship. The proposed single family dwelling is the minimum relief necessary to relieve the extraordinary hardship which has been shown to exist.

The CMP (N.J.A.C. 7:50-4.62(d)1iii) requires the acquisition and redemption of 0.25 Pinelands Development Credits (PDCs) whenever a Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. As the applicant is obtaining a Waiver from the groundwater quality standard (N.J.A.C. 7:50-6.84(a)5iv.) a condition is included to require the applicant to purchase the requisite 0.25 PDCs.

The CMP (N.J.A.C. 7:50-4.62(d)1ii) also requires the acquisition and redemption of any PDCs that are otherwise required pursuant to N.J.A.C. 7:50-5.27, 5.28 or 5.32. The CMP (N.J.A.C. 7:50-5.27(c)) provides that any local approval in a Pinelands Village, including variances, which grants relief from density or lot area requirements shall require that PDCs be used for all dwelling units or lots in excess of that otherwise permitted, unless a Waiver for the dwelling unit or lot has been approved by the Commission. As indicated above, the applicant previously received a municipal variance granting relief from the lot area requirement for the proposed dwelling. However, since the applicant qualifies for a Waiver, no PDCs are required for the municipal lot area variance.

To meet the requirements of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63(a) and N.J.A.C. 7:50-4.65, the Pinelands Commission staff has determined that the parcel must be developed in accordance with the following conditions:

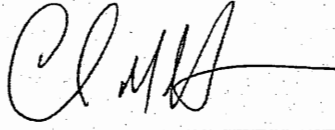
1. Except as modified by the below conditions, the proposed development shall adhere to the plot plan prepared by Accutech Engineering, dated March 7, 2015 and last revised July 18, 2016.
2. The septic system must be located in an area where the seasonal high water table is at least five feet below the natural ground surface.
3. The proposed dwelling must utilize an alternate design wastewater system authorized pursuant to the CMP on a 1.0 acre lot and approved for use by the Pinelands Commission and the New Jersey Department of Environmental Protection.
4. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole principal use of the parcel.
5. Prior to Commission issuance of a letter advising that any municipal or county permit or approval may take effect, the Commission must receive a letter from the Pinelands Development Credit Bank indicating that the requisite 0.25 PDCs have been acquired and submitted to the PDC Bank for redemption.
6. This Waiver shall expire August 10, 2023 unless all necessary construction permits have been issued by that date. The Waiver shall also expire if any construction permit is allowed to expire or lapse after August 10, 2023 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.
7. Prior to Commission issuance of a letter advising that any municipal or county permit or approval may take effect, a copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission. The deed shall specify that the conditions are being imposed pursuant to a Waiver of Strict Compliance referring to the application number. The deed shall also state that the conditions are enforceable by the Pinelands Commission, Lacey Township and any other party of interest.

### 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 and received at the Commission offices no later than 4:00 PM on August 7, 2018 and 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 determination 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, Lacey Township Planning Board (via email)
- Lacey Township Construction Code Official (via email)
- Lacey Township Environmental Commission (via email)
- Secretary, Ocean County Planning Board (via email)
- Ocean County Health Department (via email)



# State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinlands



PHILIP D. MURPHY  
Governor

SHEILA Y. OLIVER  
Lt. Governor

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

SEAN W. EARLEN  
Chairman  
NANCY WITTENBERG  
Executive Director

## REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE

July 20, 2018

Lisa Gassert (via email)  
1720 Old Marlton Pike E  
Marlton, NJ 08053

Re: Application # 2004-0352.001  
Block 114, Lot 1.01  
Evesham Township

Dear Ms. Gassert:

The Commission staff has completed its review of the above referenced application for a Waiver of Strict Compliance ("Waiver") proposing the development of a single family dwelling on the above referenced parcel. 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 August 10, 2018 meeting.

### FINDINGS OF FACT

This application is for the development of a single family dwelling serviced by public sanitary sewer on the above referenced 5.2 acre parcel in Evesham Township. The parcel is located within a Pinelands Regional Growth Area and in Evesham Township's Regional Growth 1 (RG-1) zoning district. In this zoning district, Evesham Township's certified land use ordinances require a residential density of one dwelling unit per 17,424 square feet for a single family dwelling serviced by public sanitary sewer.

On October 9, 2009, the Pinelands Commission approved a Waiver for the development of a single family dwelling serviced by public sanitary sewer on the parcel. An application for development of the proposed dwelling was subsequently completed with the Commission and a Certificate of Filing was issued on August 26, 2011. The Pinelands Comprehensive Management Plan (CMP, N.J.A.C. 7:50-4.70(c)) specifies that a Waiver expires five years after the date of Commission approval unless all necessary construction permits have been issued within the five year period, the authorized work is commenced within 12 months after issuance of the construction permits and no such permit becomes invalid after the five year period.

No information has been provided to the Commission staff demonstrating that a construction permit was issued by October 9, 2014 or, if any such construction permit was issued, that the permit remains valid.



By letter dated April 29, 2018, a new owner of the parcel contacted the Commission regarding the prior Waiver. By letter dated May 7, 2018, the Commission staff notified the new owner of the parcel that the Waiver approved by the Commission on October 9, 2009 expired on October 9, 2014. On June 1, 2018, the current application for a new Waiver was completed with the Commission.

The parcel has been site inspected by a member of the Commission's staff. Additionally, the appropriate resource capability maps and data available to the staff have been reviewed.

A portion of the parcel is wetlands as defined in N.J.A.C. 7:50-6.5(a)2. The wetlands continue onto adjacent lands. Any development of the parcel would be located within 300 feet of these wetlands. The applicant has submitted no information to demonstrate that the proposed development will not cause a significant adverse impact on the wetlands. Based on the quality and location of the wetlands, the proposed development will cause a significant adverse impact on the wetlands. As there will be a significant adverse impact on wetlands located within 300 feet of the proposed development, the applicant is requesting a Waiver from the buffer to wetlands standard contained in the CMP (N.J.A.C. 7:50-6.14).

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling will be the sole principal use of the entire contiguous parcel. The development of a single family dwelling on the parcel does not require a lot area or density variance pursuant to Evesham Township's certified land use ordinances. A single family dwelling can be developed on the parcel without violating any of the criteria contained in N.J.A.C. 7:50-4.65(b) if the conditions recommended below are imposed.

Only if the parcel is developed in accordance with the conditions recommended below will the adverse impacts on wetlands be minimized.

### PUBLIC COMMENT

The applicant provided the requisite public notice. Public notice to all property owners within 200 feet of the parcel was completed on May 31, 2018. Newspaper public notice was completed on June 7, 2018. The application was designated as complete on the Commission's website on June 1, 2018. The Commission's public comment period closed on July 13, 2018. The Commission staff received one written comment (attached) regarding this application:

Written Commenter #1: The commenters are concerned about the impact of the proposed development on wetlands, stormwater runoff and property maintenance.

Staff Response: The Commission staff appreciates the commenters' interest in the Pinelands. The proposed development will maintain a minimum buffer to wetlands of 50 feet. The proposed buffer to wetlands ranges from 50 feet to approximately 150 feet. The Commission regulations do not require an application for a single family dwelling to address stormwater runoff. However, this Waiver recommendation is conditioned upon provision of certain measures that will reduce stormwater runoff. The Commission's Waiver regulations are designed to provide all property owners with at least a minimum beneficial use of a parcel consistent with the constitutional requirements. The applicant has demonstrated that the proposed dwelling meets the minimum CMP standards to qualify for a

Waiver. The commenter may wish to discuss with an appropriate municipal official their stormwater management and property maintenance concerns.

### CONCLUSION

The CMP (N.J.A.C. 7:50-4.62) sets forth the standards which must be met before a Waiver can be approved. The CMP (N.J.A.C. 7:50-4.62(a)) requires that for a Waiver application to be approved based on extraordinary hardship, the applicant must demonstrate that the conditions of either N.J.A.C. 7:50-4.63(a) or (b) have been met.

N.J.A.C. 7:50-4.63(a) sets forth five conditions which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified categories of development is a single family dwelling on a parcel within a Pinelands Regional Growth Area, Pinelands Town or a Pinelands Village which will be served by a centralized wastewater treatment system.

This application is only for a Waiver from the wetland buffer standard of the CMP. The parcel is located in a Pinelands Regional Growth Area. The applicant is seeking to develop a single family dwelling served by a centralized wastewater treatment system on the parcel. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50- 4.63(a)1iv.

The second condition is that the parcel includes all contiguous land in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. Since the parcel includes all such contiguous land, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)2.

The third condition is that the proposed use will be the sole principal use on the entire contiguous parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c). As the proposed single family dwelling will be the sole principal use on the parcel, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)3.

The fourth condition is that all necessary municipal lot area and density variances have been obtained if the property is located in a municipality whose master plan and land use ordinances have been certified by the Pinelands Commission. Evesham Township's master plan and land use ordinances have been certified by the Pinelands Commission. The certified ordinance does not require a lot area or density variance. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50- 4.63(a)4.

The fifth condition is that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver which permits a parcel to be developed unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP and will not result in a substantial impairment of the resources of the Pinelands Area. N.J.A.C. 7:50-4.65(b) sets forth the circumstances which do not comply with N.J.A.C. 7:50-4.65(a). With the conditions recommended below, the proposed development will not violate any of the circumstances contained in N.J.A.C. 7:50-4.65(b). As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)5.

Since the applicant meets all five conditions set forth in N.J.A.C. 7:50-4.63(a), the applicant has demonstrated that an extraordinary hardship exists pursuant to N.J.A.C. 7:50-4.62(a).

As required by N.J.A.C. 7:50-4.62(b), the proposed dwelling will not result in substantial impairment of the resources of the Pinelands or be inconsistent with the provisions of the Pinelands Protection Act, the Federal Act or the CMP in accordance with the criteria set forth in N.J.A.C. 7:50-4.65.

As required by N.J.A.C. 7:50-4.62(c) and with the conditions recommended below, the proposed dwelling will not involve trespass or create a public or private nuisance by being materially detrimental or injurious to other property or improvements in the area in which the parcel is located, increase the danger of fire or endanger public safety.

The CMP (N.J.A.C. 7:50-4.62(d)) requires that the Waiver only grant the minimum relief necessary to relieve the extraordinary hardship. The proposed single family dwelling is the minimum relief necessary to relieve the extraordinary hardship which has been shown to exist.

The CMP (N.J.A.C. 7:50-4.62(d)1iii) requires the acquisition and redemption of 0.25 Pinelands Development Credits (PDCs) whenever a Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. The applicant is obtaining a Waiver from the required buffer to wetlands standard (N.J.A.C. 7:50-6.14). The Commission staff received notification from the Pinelands Development Credit Bank that the prior Waiver applicant acquired and redeemed the requisite 0.25 PDCs. The applicant meets the requirement contained in N.J.A.C. 7:50-4.62(d)1iii.

To meet the requirements of N.J.A.C. 7:50 4.62, N.J.A.C. 7:50 4.63(a) and N.J.A.C. -7:50 4.65, the Pinelands Commission staff has determined that the parcel must be developed in accordance with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the plot plan prepared by Clancy & Associates, Inc., dated October 6, 2005 and last revised November 18, 2010.
2. Appropriate measures, such as silt fencing or comparable alternative, shall be taken during construction to preclude sedimentation from entering wetlands.
3. All development, including clearing and land disturbance, shall be located within the proposed development envelope as shown on the above referenced plan. No development, including clearing and land disturbance, is permitted within 50 feet of wetlands.
4. Sufficient dry wells or a comparable alternative shall be installed to contain all stormwater runoff from the house.
5. The driveway shall be constructed of crushed stone or other permeable material.
6. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole use of the parcel.
7. This Waiver shall expire August 10, 2023 unless all necessary construction permits have been issued by that date. The Waiver shall also expire if any construction permit is allowed

to expire or lapse after August 10, 2023 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.

8. A copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission prior to Commission issuance of a letter advising that any submitted municipal or county permit or approval may take effect. The deed shall specify that the conditions are being imposed pursuant to a July 20, 2018 Pinelands Commission Report on an Application for a Waiver of Strict Compliance ("Waiver Report") for App. No. 2004-0352.001. The deed shall indicate that the conditions previously required by the September 28, 2009 Waiver Report for App. No. 2004-0352.001, approved by the Pinelands Commission on October 9, 2009, have since expired and are superseded by the conditions required by the July 20, 2018 Waiver Report approved by the Pinelands Commission on August 10, 2018. The deed shall also indicate that the conditions are enforceable by the Pinelands Commission, Evesham Township and any other party of interest.

With the above conditions, the applicant qualifies for a Waiver of Strict Compliance from the requirements of N.J.A.C. 7:50-6.14.

Since the applicant meets the provisions of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63 and N.J.A.C. 7:50-4.65 for the development of one single family dwelling on the subject lot, it is recommended that the Pinelands Commission **APPROVE** the requested Waiver of Strict Compliance 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 and received at the Commission offices no later than 4:00 PM on August 7, 2018 and 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 determination 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, Evesham Township Planning Board (via email)  
Evesham Township Construction Code Official (via email)  
Evesham Township Environmental Commission (via email)  
Secretary, Burlington County Planning Board (via email)  
Matt & Fran Davis (via email)

Pinelands Commission  
PO Box 359  
New Lisbon, NJ 08064

Matt and Fran Davis  
1626 Roosevelt Ave  
Marlton, NJ 08053

Dear Pinelands Commission;

First thank you for giving us an opportunity to have an input in this decision. My house and property has a branch of the Rancocas that runs thru it and every storm we have to worry about flooding. With all the available area in Marlton sprouting buildings more water now runs off to the stream creating more issues for the properties that are already on the stream. Technically we are part of the "Pinelands" but we are within the boundary that was set by the commission and we are concerned that what happens here definitely effects the pinelands.

This area is considered wetlands which is fragile. Wetlands help filter out water and refill our aquifers to give us clean drinking water and aid in flooding by slowing run off. As the Pinelands and Wetlands commission, you are charge with protecting this very unique ecosystem. This area of Marlton already has to be concerned with flooding. Adding a house to this property decreases the area that water can naturally adsorb into the ground. Since the ground can't absorb the water this creates more run off.

A major concern of mine is the property that the owner already owns. The property is not maintained now. The trash is never cleaned up and there are piles of debris everywhere. The property owners even needed a farm tractor this weekend to cut the lawn do to neglect. Their tree and yard trimmings are left lying around and the dirt that runs off of the property block the storm drains causing flooding.

With all of our concerns for flooding and the environment we do not believe it is a wise decision to allow a house to be built on this property.

Thank you for your concern,

Matt and Fran Davis



**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-18- 25

**TITLE:** Denying an Application for a Waiver of Strict Compliance (Application Number 2007-0398.001)

Commissioner Lloyd moves and Commissioner Ashmun seconds the motion that:

**WHEREAS**, the Pinelands Commission has reviewed each of the Findings of Fact, Conclusion and the recommendation of the Executive Director that the following application for Waiver of Strict Compliance be denied:

2007-0398.001

**Applicant:** Brian Tomasino  
**Municipality:** Galloway Township  
**Management Area:** Pinelands Town  
**Date of Report:** July 20, 2018  
**Proposed Development:** Single family dwelling.

**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 Findings of Fact and Conclusion of the Executive Director for the requested Waiver of Strict Compliance; and

**WHEREAS**, the Pinelands Commission hereby determines that the requested Waiver does not conform to the standards for approving an application for a Waiver of Strict Compliance based on extraordinary hardship as set forth in N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63 and N.J.A.C. 7:50-4.65 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 2007-0398.001 for a Waiver of Strict Compliance is hereby **denied**.

**Record of Commission Votes**

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

\*A = Abstained / R = Recused

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

Date: August 16, 2018  
Sean W. Earlen  
Sean W. Earlen  
Chairman



State of New Jersey  
THE PINELANDS COMMISSION  
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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

SEAN W. EARLEN  
Chairman  
NANCY WITTENBERG  
Executive Director

**REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE**

July 20, 2018

Brian Tomasino  
4 Brookview Lane  
Granby, CT 06035

Re: Application # 2007-0398.001  
Block 134.01, Lot 4  
Block 134.02, Lot 3  
Block 146, Lot 3  
Block 152, Lot 3  
Galloway Township

Dear Mr. Tomasino:

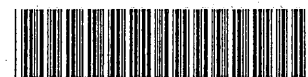
The Commission staff has completed its review of this application for a Waiver of Strict Compliance ("Waiver") proposing development of one single family dwelling on the above referenced parcel. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission deny the application at its August 10, 2018 meeting.

You have expressed an interest in the New Jersey Department of Environmental Protection acquiring the parcel under the Commission's Limited Practical Use Program. One of the requirements to qualify for the LPU Program is Pinelands Commission denial of a Waiver application.

**FINDINGS OF FACT**

This application is for the development of one single family dwelling, served by a conventional onsite septic system, on the above referenced 4.15 acre parcel in Galloway Township. The parcel is located in Galloway Township's TR zoning district within the Pinelands Town of Egg Harbor City. The applicant could meet the requirement of the Galloway Township land use ordinance that allows the development of a dwelling served by a conventional onsite septic system on a 3.2 acre parcel in the TR zoning district.

The parcel has been site inspected by a member of the Commission's staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.



The CMP (N.J.A.C. 7:50-6.84(a)4iv) requires that if development is proposed to be served by an onsite septic system, the proposed onsite wastewater disposal field must be located in an area where the depth to seasonal high water table is at least five feet below the natural ground surface. The Atlantic County Soils Survey indicates that the soils on this parcel have a seasonal high water table of less than two feet below the natural ground surface. The applicant has submitted no information to demonstrate that the septic system could be located in an area where the seasonal high water table is at least five feet below the natural ground surface. Since the available information indicates the seasonal high water table on the entire parcel is less than five feet below the natural ground surface, the applicant is requesting a Waiver from the seasonal high water table requirement for an onsite wastewater disposal field contained in the CMP (N.J.A.C. 7:50-6.84(a)4iv).

The CMP (N.J.A.C. 7:50-6.6) prohibits most development in wetlands. Available information indicates that a portion of the parcel is wetlands. The wetlands on the parcel do not meet the CMP definition of an impaired wetlands (N.J.A.C. 7:50-2.11). The applicant has not demonstrated that no development would be located on these wetlands. The CMP (N.J.A.C. 7:50-6.14) also prohibits most development within 300 feet of wetlands unless it is demonstrated that the proposed development will not result in a significant adverse impact on wetlands. Available information indicates that the portion of the parcel that is not wetlands is located in the required 300 foot buffer to these wetlands. The applicant has not demonstrated that no development would be located within 300 feet of wetlands. The applicant has submitted no information to demonstrate that proposed development within 300 feet of wetlands would not cause a significant adverse impact on the wetlands. Based on the quality and location of the wetlands, the proposed development will cause a significant adverse impact on the wetlands. As there will be a significant adverse impact on wetlands, the applicant is requesting a Waiver from the wetlands and wetlands buffer requirements contained in the CMP (N.J.A.C. 7:50-6.6 and N.J.A.C. 7:50-6.14).

The CMP (N.J.A.C. 7:50-6.27) prohibits development unless it is designed to avoid irreversible adverse impacts on the survival of any local population of plants designated by the New Jersey Department of Environmental Protection as endangered plant species and those plants designated in the CMP as threatened or endangered. The applicant has submitted no information to demonstrate that the proposed development could be designed to avoid irreversible adverse impacts on the survival of any local population of plants designated by the New Jersey Department of Environmental Protection as endangered plant species and those plants designated in the CMP as threatened or endangered. As the applicant has not demonstrated there will not be a significant adverse impact on threatened and endangered species, the applicant is requesting a Waiver from the CMP threatened and endangered species protection standard (N.J.A.C. 7:50-6.27).

### **PUBLIC NOTICE**

The applicant has provided the requisite public notice. Public notice to all property owners within 200 feet of the parcel was completed on May 25, 2018. Newspaper public notice was completed on May 24, 2018. The application was designated as complete on the Commission's website on June 20, 2018. The Commission's public comment period closed on July 13, 2018. No public comment regarding this application was submitted to the Commission.

### **CONCLUSION**

The CMP (N.J.A.C. 7:50-4.62) sets forth the standards which must be met before a Waiver can be approved. N.J.A.C. 7:50-4.62(a) requires that for a Waiver to be approved based on extraordinary

hardship, an applicant must demonstrate that the conditions of either N.J.A.C. 7:50-4.63(a) or (b) have been met.

N.J.A.C. 7:50-4.63(a) sets forth five conditions which must be met for an applicant to qualify for a Waiver based on an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in the CMP (N.J.A.C. 7:50-6) for certain specified types of development. A single family dwelling on a parcel within a Regional Growth Area, Pinelands Town or Pinelands Village which is at least 20,000 square feet, excluding road rights of way, in size and will not be served by a centralized wastewater treatment system is one of the specified categories of development. As the parcel contains 4.15 acres in a Pinelands Town that will not be served by a centralized wastewater treatment system, the application meets the condition set forth in N.J.A.C. 7:50-4.63(a)1v.

The second condition is that the parcel includes all contiguous land in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. Since the parcel includes all such contiguous lands, the application meets the condition set forth in N.J.A.C. 7:50-4.63(a)2.

The third condition is that the proposed use will be the sole principal use on the entire contiguous parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c). As the proposed single family dwelling would be the sole principal use on the parcel, the application meets the condition set forth in N.J.A.C. 7:50-4.63(a)3.

The fourth condition is that all necessary municipal lot area and density variances have been obtained if the parcel is located in a municipality whose master plan and land use ordinances have been certified by the Pinelands Commission. Galloway Township's master plan and land use ordinances have been certified by the Pinelands Commission. The certified ordinances do not require a municipal lot area or density variance for the development of a single family dwelling on this 4.15 acre parcel. The application meets the condition set forth in N.J.A.C. 7:50-4.63(a)4.

The fifth condition is that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver which permits a parcel to be developed unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP and will not result in substantial impairment of the resources of the Pinelands Area. N.J.A.C. 7:50-4.65(b) provides that the following circumstances will result in substantial impairment of the resources of the Pinelands Area and do not comply with N.J.A.C. 7:50-4.65(a):

- |                        |   |
|------------------------|---|
| N.J.A.C. 7:50-4.65(b)5 | The development of a single family dwelling and associated improvements in wetlands unless that wetland is an impaired wetland;       |
| N.J.A.C. 7:50-4.65(b)7 | Any development which will violate the threatened and endangered species protection requirements contained in N.J.A.C. 7:50-6.27; and |
| N.J.A.C. 7:50-4.65(b)8 | Any development which will require the location of an onsite wastewater disposal field in an area where the seasonal high water       |

table is within two feet of the natural ground surface or within 50 feet of any surface water body.

The proposed development is not permitted in wetlands. The wetlands on the parcel do not meet the CMP definition of "impaired wetlands." The applicant has not demonstrated that proposed development will not be located on wetlands as required by N.J.A.C. 7:50-4.65(b)5. As a result, the applicant has not demonstrated that the proposed development will not violate the criteria contained in N.J.A.C. 7:50-4.65(b)5.

The applicant has not demonstrated that the proposed development could be designed to avoid irreversible adverse impacts on the survival of any local population of plants designated by the New Jersey Department of Environmental Protection as endangered plant species and those plants designated in the CMP as threatened or endangered. As a result, the applicant has not demonstrated that the proposed development will not violate the criteria contained in N.J.A.C. 7:50-4.65(b)7.

The applicant has not demonstrated that a proposed onsite wastewater disposal field will not be located in an area where the seasonal high water table is within two feet of the natural ground surface or within 50 feet of any surface water body. As a result, the applicant has not demonstrated that the proposed development will not violate the criteria contained in N.J.A.C. 7:50-4.65(b)8.

The application does not meet the condition set forth in N.J.A.C. 7:50-4.63(a)5.

As the application does not meet all five conditions set forth in N.J.A.C. 7:50-4.63(a), the applicant does not qualify for a Waiver pursuant to that subsection.

N.J.A.C. 7:50-4.63(b) sets forth four conditions which must be met for an applicant to qualify for a Waiver based on an extraordinary hardship pursuant to that subsection.

The first condition is that the parcel includes all contiguous lands in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. As concluded above, the concerned parcel includes all contiguous lands that were in common ownership on or after January 14, 1981. The application meets the condition contained in N.J.A.C. 7:50-4.63(b)1.

The second condition is that the parcel includes all contiguous land with no substantial improvements which is available for purchase at fair market value, including lands which are contiguous as a result of the acquisition of other contiguous lands. There is vacant land bordering the concerned parcel. The applicant has not demonstrated that the vacant land is not available for purchase at fair market value. The application does not meet the condition set forth in N.J.A.C. 7:50-4.63(b)2.

The third condition is that the parcel, including all contiguous lands which are available pursuant to N.J.A.C. 7:50-4.63(b)1 and 2, may not have a beneficial use considering five factors.

The first factor to be considered is the value of any existing development or use of the overall parcel, including any allocation of Pinelands Development Credits (PDCs). The overall parcel is vacant and no use has been established on the parcel. PDCs are not allocated to lands in a Pinelands Town.

The second factor to be considered is the value of any use or development of the parcel that is authorized by the provisions of the CMP. The applicant has submitted no information to address the value of any use or development of the parcel that is authorized by the provisions of the CMP.

The third factor to be considered is the ability of the property owner to sell the parcel to the owner of a contiguous parcel, any governmental agency or to a nonprofit conservation group for its fair market value. The applicant has offered to sell the parcel to the New Jersey Department of Environmental Protection. The applicant provided a letter from the NJDEP Green Acres Program which declined the offer. The applicant also submitted a letter from the Atlantic County Department of Regional Planning and Development declining the offer to acquire the parcel. The applicant submitted no additional information to demonstrate that the parcel cannot be sold for its fair market value to any other governmental agency or to a nonprofit conservation group for its fair market value.

The fourth factor is the ability of the property owner to either buy noncontiguous land or to sell the parcel to a noncontiguous property owner under a residential density transfer provision contained in a certified municipal land use ordinance or pursuant to the CMP (N.J.A.C. 7:50-5.30). Galloway Township's certified land use ordinances do not contain a residential density transfer provision that applies to lands in Galloway Township's TR zoning district.

The fifth factor to be considered is whether any inability to have a beneficial use relates to or arises out of the characteristics of the concerned parcel and results from unique circumstances peculiar to the parcel which are not the result of any personal situation of the applicant and are not the result of any action or inactions by the application or any predecessor in title. The minimum depth to seasonal high water table for an onsite septic system wastewater disposal field, threatened and endangered species protection requirements and wetland protection requirements apply to all other vacant parcels in the area. Any hardship which does exist is a result of the applicant's personal circumstances and their actions and inactions.

Based on these five factors, the application does not meet the condition set forth in N.J.A.C. 7:50-4.63(b)3.

The fourth condition is that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). As concluded above, the applicant has not demonstrated that a single family dwelling can be developed on the concerned parcel without violating N.J.A.C. 7:50-4.65(b)5, 7 and 8. As a result, the applicant does not meet the condition contained in N.J.A.C. 7:50-4.63(b)4.

As the applicant does not meet all the conditions for demonstrating extraordinary hardship contained in N.J.A.C. 7:50-4.63(b), the applicant does not qualify for a Waiver pursuant to that subsection.

As N.J.A.C. 7:50-4.63(a) and (b) are the exclusive means of establishing extraordinary hardship, the applicant does not qualify for a Waiver.

As a result, it is recommended that the Pinelands Commission **DENY** the requested Waiver of Strict Compliance.

### 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 and received at the Commission offices no later than 4:00 PM on August 7, 2018 and 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 determination of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Recommended for Denial by:

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

- c: Secretary, Galloway Township Planning Board (via email)  
 Galloway Township Construction Code Official (via email)  
 Galloway Township Environmental Commission (via email)  
 Atlantic County Department of Regional Planning and Development (via email)  
 Atlantic County Division of Public Health (via email)  
 Betsy Piner



## RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18- 26

**TITLE:** Issuing an Order to Certify Ordinances 12-2018 and 19-2018, Amending Chapter 225 (Zoning) of the Code of Egg Harbor Township

Commissioner Lloyd moves and Commissioner Barr  
seconds the motion that:

**WHEREAS**, on October 1, 1993, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor Township; and

**WHEREAS**, Resolution #PC4-93-139 of the Pinelands Commission specified that amendment to the Township's certified Master Plan and 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 Plans 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 #PC4-93-139 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 April 18, 2018, Egg Harbor Township adopted Ordinance 12-2018, amending Chapter 225 (Zoning) of the Township's Code by adopting requirements for the provision of affordable housing in the RG-4 and RG-5 (Residential) Districts, within the Pinelands Regional Growth Area; and

**WHEREAS**, the Pinelands Commission received a certified copy of Ordinance 12-2018 on April 23, 2018; and

**WHEREAS**, on May 2, 2018, Egg Harbor Township adopted Ordinance 1970-2017, amending Chapter 225 by adopting a revised Schedule of Area, Yard and Building Requirements for the RG-4 and RG-5 Districts; and

**WHEREAS**, the Pinelands Commission received a certified copy of Ordinance 19-2018 on May 7, 2018; and

**WHEREAS**, by letter dated May 15, 2018, the Executive Director notified the Township that Ordinances 12-2018 and 19-2018 would require formal review and approval by the Pinelands Commission; and

**WHEREAS**, a public hearing to receive testimony on Ordinances 12-2018 and 19-2018 was duly advertised, noticed and held on June 20, 2018 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 Ordinances 12-2018 and 19-2018 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinances 12-2018 and 19-2018 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 Ordinances 12-2018 and 19-2018 be certified; and

**WHEREAS**, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinances 12-2018 and 19-2018 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 Ordinances 12-2018 and 19-2018, amending Chapter 225 (Zoning) of the Code of Egg Harbor Township, are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Egg Harbor 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.

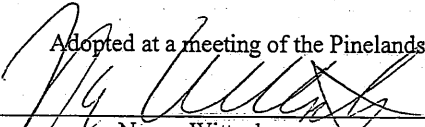
**Record of Commission Votes**

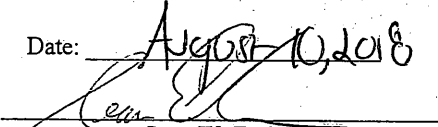
AYE	NAY	NP	A/R*	AYE	NAY	NP	A/R*	AYE	NAY	NP	A/R*
X							A	X			
X						X					X
X				X							X
X				X				X			
		X		X					X		

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: August 10, 2018

  
 Nancy Wittenberg  
 Executive Director

  
 Sean W. Earlen  
 Chairman



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

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PHILIP D. MURPHY  
Governor

SHEILA Y. OLIVER  
Lt. Governor

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

SEAN W. EARLEN  
Chairman  
NANCY WITTENBERG  
Executive Director

**REPORT ON ORDINANCES 12-2018 AND 19-2018, AMENDING CHAPTER 225  
(ZONING) OF THE CODE OF EGG HARBOR TOWNSHIP**

July 27, 2018

Egg Harbor Township  
3515 Bargaintown Road  
Egg Harbor Township, NJ 08234

**FINDINGS OF FACT**

I. Background

The Township of Egg Harbor is located in the southeastern portion of the Pinelands Area, in Atlantic County. Pinelands municipalities adjacent to Egg Harbor Township include Galloway Township, Hamilton Township and Estell Manor City in Atlantic County, as well as Upper Township in Cape May County.

On October 1, 1993, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor Township.

On April 18, 2018, Egg Harbor Township adopted Ordinance 12-2018, amending Chapter 225 (Zoning) of the Township's Code by adopting requirements for the provision of affordable housing in the RG-4 and RG-5 (Residential) Districts, within the Pinelands Regional Growth Area. The Pinelands Commission received a certified copy of Ordinance 12-2018 on April 23, 2018.

On May 2, 2018, Egg Harbor Township adopted Ordinance 19-2018, amending Chapter 225 by adopting a revised Schedule of Area, Yard and Building Requirements to reflect the amendments made by Ordinance 12-2018 relative to permitted density and Pinelands Development Credit use in the RG-4 and RG-5 Districts. The Pinelands Commission received a certified copy of Ordinance 19-2018 on May 7, 2018.

By letter dated May 15, 2018, the Executive Director notified the Township that Ordinances 12-2018 and 19-2018 would require formal review and approval by the Pinelands Commission.

## II. Master Plans and Land Use Ordinances

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

- \* Ordinance 12-2018, amending Chapter 225 (Zoning) of the Code of Egg Harbor Township, introduced on March 21, 2018 and adopted on April 18, 2018; and
- \* Ordinance 19-2018, amending Chapter 225 (Zoning) of the Code of Egg Harbor Township, introduced on April 18, 2018 and adopted on May 2, 2018.

These ordinances 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**

Ordinance 12-2018 amends Chapter 225 (Zoning) of the Code of Egg Harbor Township by requiring that all residential development in the RG-4 and RG-5 Districts provide for affordable housing. The ordinances were adopted to implement the Township's Settlement Agreement with the Fair Share Housing Center, executed on August 16, 2017. The agreement stipulates that Egg Harbor Township has a rehabilitation obligation of 92 units, a prior round obligation of 763 units, and a third round prospective need of 1,000 units.

Ordinance 12-2018 requires that all residential development in the RG-4 or RG-5 Districts resulting in construction of new residential housing units must set aside 20% of the new units for low and moderate income households. Projects that contain less than 20 affordable housing units must have said units dispersed throughout the development and located within buildings designed to be architecturally indistinguishable from the market-rate units within the development. Projects that contain 20 or more affordable housing units have the option of accommodating said units in 100% affordable housing buildings that meet the garden apartment requirements provided in the Township's Code. Residential developments that received preliminary or final approval before the effective date of Ordinance 12-2018 are exempted from the affordable housing set-aside requirements, unless those approvals expire or are amended to reflect substantial changes to the general terms and conditions on which preliminary approval was granted. Information provided to the Commission by the Township indicates that, as of June 30, 2018, there are no projects in either zone that qualify for this exemption.

Egg Harbor Township's RG-4 and RG-5 Districts are the two highest-density zones within the Township's Pinelands Regional Growth Area. In the RG-4 District, single-family detached dwellings, two-family dwellings and single-family attached dwellings (townhouses) are

permitted at a maximum density of 6.0 units per acre. The same housing types, as well as garden apartments, are permitted in the RG-5 District at a maximum density of 7.5 units per acre.

Ordinances 12-2018 and 19-2018 revise various area and bulk standards applicable to different types of permitted residential uses in the two zones but do not change permitted housing types. With respect to single-family attached units (townhouses) in both zones, the minimum required tract size is reduced from five to three acres and the minimum required perimeter buffer is reduced from 20 to 10 feet. For garden apartments in the RG-5 District, the minimum required tract size is reduced from 10 to seven acres. Maximum permitted densities in the two zones remain unchanged; therefore, there is no change in the Township's Regional Growth Area residential zoning capacity. Based on the permitted densities and amount of vacant land in the two zones, the Township estimates that Ordinances 12-2018 and 19-2018 will provide a realistic opportunity for development of up to 726 affordable housing units through 2025.

Ordinances 12-2018 and 19-2018 are consistent with the land use standards of the Comprehensive Management Plan. This standard for certification is met.

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

Not applicable.

**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**

Ordinance 12-2018 amends Chapter 225 (Zoning) of the Township's Code by requiring that Pinelands Development Credits (PDC) be acquired and redeemed for 25% of the market rate residential units developed in the RG-4 and RG-5 Districts. This 25% obligation applies regardless of the density at which any particular project is proposed or constructed. The use of

PDCs is not required for those units in the RG-4 or RG-5 Districts that are required to be developed as affordable units.

Ordinance 12-2018 does not increase or decrease the amount of residentially zoned property in Egg Harbor Township's Regional Growth Area. Neither does the ordinance affect the maximum permitted densities or residential zoning capacity in the Regional Growth Area. Rather, Ordinance 12-2018 accommodates PDC use in a different manner than has traditionally been the case, in order to allow the Township to meet both its PDC and affordable housing obligations. Instead of providing a base density and affording developers an opportunity to use PDCs to increase that density if they so choose, the Township has elected to make PDC use a mandatory component of all residential projects in its two highest-density zones, with an exemption for affordable housing units.

N.J.A.C. 7:50-3.39(a)8 specifies that in order to be certified by the Commission, municipal land use ordinances must provide for sufficiently residentially zoned property in the Regional Growth Area to be eligible for an increase in density to accommodate PDCs as provided for in N.J.A.C. 7:50-5.28(a)3. N.J.A.C. 7:50-5.28(a)7i then authorizes Pinelands municipalities to employ additional density bonus or incentive programs, provided such programs do not interfere with or otherwise impair in any way the required municipal program for use of PDCs. Additional flexibility is provided in more general terms in the introduction to subchapter 5 of the CMP which states that CMP standards may be refined by local agencies, provided that the objectives and goals the minimum standards represent will be achieved. In this context, the PDC requirements implemented by Ordinance 12-2018 are consistent with the Comprehensive Management Plan. While the 25% requirement applied to the RG-4 and RG-5 Districts is not as high a number as would be provided through the more traditional zoning approach (where PDCs would account for 33% of the total number of permitted units), it is important to remember that the traditional base density/bonus density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of PDCs. There is no requirement under the traditional approach that any PDCs be used in any particular development project. Ordinance 12-2018 *guarantees* a certain level of PDC use in association with any residential development in the Township's two highest-density Regional Growth Area residential zones, regardless of project density or the number of units that are ultimately built. Given the greater certainty provided by this approach, the Executive Director believes that the PDC requirements adopted by Ordinance 12-2018 should be viewed as being consistent with Comprehensive Management Plan standards.

This standard for certification is met.

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

Not applicable.

#### **10. General Conformance Requirements**

Ordinances 12-2018 and 19-2018, amending Chapter 225 (Zoning) of the Code of Egg Harbor 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**

Ordinances 12-2018 and 19-2018, amending Chapter 225 (Zoning) of the Code of Egg Harbor Township, comply with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act. Therefore, this standard for certification is met.

**13. Procedure to Resolve Intermunicipal Conflicts**

Not applicable.

**PUBLIC HEARING**

A public hearing to receive testimony concerning Egg Harbor Township's application for certification of Ordinances 12-2018 and 19-2018 was duly advertised, noticed and held on June 20, 2018 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:

Peter Miller, Egg Harbor Township Administrator, stated that Ordinances 12-2018 and 19-2018 arise from the Township's settlement agreement with the Fair Share Housing Center on the municipality's affordable housing obligation. He asked that the Commission look favorably upon the two ordinances.

There being no further testimony, the hearing was concluded at 9:40 a.m.

Written comments on Ordinances 12-2018 and 19-2018 were accepted through June 27, 2018; however, none were received.

**CONCLUSION**

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinances 12-2018 and 19-2018, amending Chapter 225 (Zoning) of the Code of Egg Harbor Township, 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 Ordinances 12-2018 and 19-2018 of Egg Harbor Township.

SRG/CEH



**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-18- 27

**TITLE:** To Adopt the Pinelands Commission's Fiscal Year 2019 Budgets for the Operating Fund, the Kirkwood Cohansey Aquifer Assessment Study Fund, Katie Trust Fund and the Pinelands Conservation Fund

Commissioner Agmon moves and Commissioner Lehauer seconds the motion that:

WHEREAS, pursuant to the Pinelands Protection Act, the Pinelands Commission is charged with the continuing implementation and monitoring of the Pinelands Comprehensive Management Plan; and

WHEREAS, the State of New Jersey has appropriated \$2,799,000 to support the Commission's operations during Fiscal Year 2019; and

WHEREAS, the Department of the Treasury informed the Commission that \$687,000 of budgeted health benefits and pension costs will be covered through the State's interdepartmental accounts in FY 2019; and

WHEREAS, the Commission anticipates that additional funding sources of \$1,858,511 will be available to further support the Commission's operations; and

WHEREAS, the FY 2019 Operating Budget anticipates a \$570,563 draw from the Commission's unreserved, undesignated fund balance; and

WHEREAS, the Commission is adopting an Operating Budget for FY 2019 totaling \$5,915,074; and

WHEREAS, the remaining unreserved, undesignated fund balance amount is sufficient to cover unforeseen or emergency expenditures in the near future; and

WHEREAS, the Kirkwood Cohansey Aquifer Assessment Study Fund budget for FY 2019 recommends expenditures of \$115,270, which will be drawn from the Fund Balance for this project; and

WHEREAS, the Katie Trust Fund Garden Budget for FY 2019 recommends expenditures of \$15,000, which will be drawn from the Fund Balance for the Garden project; and

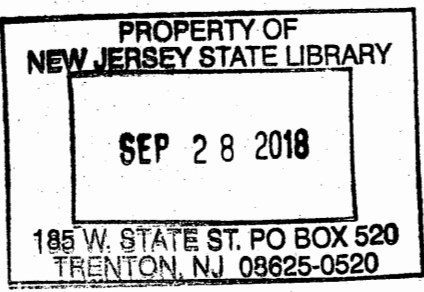
WHEREAS, a financial plan for the Pinelands Conservation Fund (PCF), which designated four programs (Land Acquisition, Conservation Planning and Research, Community Planning and Design and Education and Outreach) within the Fund, was approved by the Commission in April 2005, and revised in August 2009, and revised again in August 2014; and

WHEREAS, during FY 2019, the budget for the Land Acquisition program totals \$284,007; and

WHEREAS, the FY 2019 budget for the Conservation Planning and Research program totals \$334,610; and

WHEREAS, the FY 2019 budget for the Community Planning and Design program totals \$115,109; and

WHEREAS, the FY 2019 budget for the Education and Outreach program totals \$129,671; and



**WHEREAS**, the total budget for the Pinelands Conservation Fund during FY 2019 totals \$863,397 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 adopts the attached Fiscal Year 2019 Budgets for the Operating Fund totaling \$5,915,074; the Kirkwood Cohansey Aquifer Assessment Study Fund totaling \$115,270; the Katie Trust Fund Garden Budget totaling \$15,000 and the Pinelands Conservation Fund totaling \$863,397.

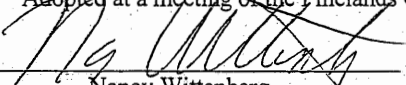
**Record of Commission Votes**

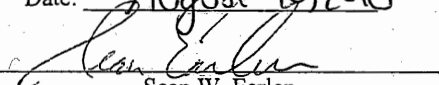
	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun	X				Howell	X				Prickett	X			
Avery	X				Jannarone			X		Quinn	X			X
Barr	X				Lloyd	X				Rohan Green				X
Chila	X				Lohbauer	X				Earlen	X			
Galletta			X		Pikolycky	X								

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: August 19, 2018

  
 Nancy Wittenberg  
 Executive Director

  
 Sean W. Earlen  
 Chairman

**PINELANDS COMMISSION  
OPERATING BUDGET REVENUES  
GENERAL FUND  
FISCAL YEAR 2019**

Revenue Source	FY2016 Budget	FY2017 Budget	FY2018 Budget	FY2019 Anticipated	Notes
State Appropriation	2,499,000	2,649,000	2,649,000	2,799,000	1
State Supplemental Funding (Fringe Benefits)	687,000	687,000	687,000	687,000	2
Miscellaneous Income	300	300	600	200	
Interest Income	1,500	2,000	5,000	25,000	3
MTMUA Hydrologic Monitoring	0	0	0	0	
CCMUA Hydrologic Monitoring	17,952	16,500	8,000	10,330	4
EPA Buffer Grant	0	0	0	0	
NPS - Long Term Environmental Monitoring	181,277	118,000	329,750	313,271	5
NPS - Long Term Economic Monitoring	106,723	37,000	328,750	326,058	5
Drexel - DWRP	0	0	0	322,003	
EPA - Micro	0	0	0	140,379	
Stockton College MOA	20,000	20,000	20,000	20,000	6
Vehicle Auction Proceeds	2,000	0	0	0	
Wetlands Permitting	200	200	2,000	10,000	7
Pinelands Application Fees	425,000	500,000	340,000	430,000	8
Utility Companies ROW Program	59,200	59,200	59,200	59,200	9
<b>TOTAL REVENUE</b>	<b>4,000,152</b>	<b>4,089,200</b>	<b>4,429,300</b>	<b>5,142,441</b>	
Microfilm Reserve Anticipated	3,650	3,650	3,650	3,650	10
Computer Reserve Anticipated	21,600	18,420	18,420	18,420	11
Fenwick Manor Painting Reserve Anticipated	40,000	80,000	100,000	120,000	12
Administrative Assessment (PnlDs. Conserv. Fund)	80,000	80,000	80,000	60,000	13
Undesignated Fund Balance Anticipated	496,310	370,442	394,468	570,563	14
<b>TOTAL OTHER INCREASES</b>	<b>641,560</b>	<b>552,512</b>	<b>596,538</b>	<b>772,633</b>	
<b>TOTAL REVENUE AND OTHER INCREASES</b>	<b>4,641,712</b>	<b>4,641,712</b>	<b>5,025,838</b>	<b>5,915,074</b>	

**PINELANDS COMMISSION  
OPERATING BUDGET EXPENDITURES  
GENERAL FUND  
FISCAL YEAR 2019**

Expenditure Account	FY2016 Budget	FY2017 Budget	FY2018 Budget	FY2019 Anticipated	Notes
<b>PERSONNEL</b>					
Salaries & Wages	2,473,705	2,540,554	2,691,781	3,031,731	15
Fringe Benefits	1,539,755	1,448,268	1,594,542	1,808,212	16,37
<b>TOTAL PERSONNEL</b>	4,013,459	3,988,822	4,286,323	4,839,943	
<b>SUPPLIES</b>					
Printing & Office Supplies	15,500	19,505	18,080	31,860	17
Vehicular Supplies	7,200	6,250	6,250	5,750	18
Household Supplies	6,000	7,800	8,450	8,900	19
Fuel & Utilities	41,100	42,150	42,350	42,350	20
Other Supplies	5,461	4,430	5,930	16,599	21
<b>TOTAL SUPPLIES</b>	75,261	80,135	81,060	105,459	
<b>SERVICES</b>					
Travel	8,000	8,610	14,900	11,500	22
Telephone	22,000	22,305	30,305	36,325	23
Postage	7,000	7,000	6,650	7,150	24
Insurance	43,900	45,800	51,900	58,200	25,37
Information Processing	69,500	94,780	77,471	77,410	26
Household Services	2,150	2,250	2,250	2,400	27
Professional Services	235,000	284,465	278,715	630,582	28,37
Other Services	21,679	23,075	28,640	31,526	29
<b>TOTAL SERVICES</b>	409,229	488,285	490,831	855,093	
<b>MAINTENANCE &amp; RENT</b>					
Maintenance - Buildings & Grounds	57,300	31,400	92,000	42,500	30
Maintenance - Equipment	25,500	17,700	17,700	27,050	31
Maintenance - Vehicular	6,000	5,750	5,750	5,750	32
Rent - Other	7,400	7,400	6,950	6,750	33
<b>TOTAL MAINTENANCE &amp; RENT</b>	96,200	62,250	122,400	82,050	
<b>IMPROVEMENTS &amp; ACQUISITIONS</b>					
Improvements - Buildings & Grounds	0	0	0	0	
Acquisitions - Vehicles	0	0	0	0	
Acquisitions - Equipment	3,563	3,800	4,619	10,528	34
Acquisitions - Information Processing Equipment	44,000	18,420	40,605	22,000	35
<b>TOTAL IMPROVEMENTS &amp; ACQUISITIONS</b>	47,563	22,220	45,224	32,528	
<b>TOTAL EXPENDITURES</b>	4,641,712	4,641,712	5,025,838	5,915,074	36

**PINELANDS COMMISSION  
OPERATING BUDGET  
FISCAL YEAR 2019 NOTES  
August 1, 2018**

1. The Governor's budget includes a FY 2019 State Appropriation to the Commission in the amount of \$2,799,000. This is an increase from the FY2018 Appropriation.
2. State Supplemental Funding (Fringe Benefits) totaling \$687,000 helps to offset the Commission's health and pension costs. Since FY 2004, the Department of the Treasury has agreed to help the Commission finance its escalating health benefits premiums through an Interdepartmental Account. Beginning in FY 2009, the amount of assistance was calculated using projected health and pension costs not funded through other sources. Using this calculation, the Commission requested \$838,218 in FY 2012, \$837,927 in FY 2013, \$844,809 in FY 2014 and \$840,455 in FY 2015 but was only approved to receive \$687,000. In FY 2016, only \$687,000 was received and this amount was consistent for FY 2017, FY 2018 and will be for FY 2019.
3. Interest Income is earned in the Commissions checking account and the cash management fund designated for general use. Interest income for the Kirkwood Cohansey Aquifer Study and the Pinelands Conservation Fund is reflected in the budgets for those programs. Interest rates have fluctuated in recent years and have greatly affected interest income over several years and will continue to do so in FY 2019.
4. Monitoring for the Camden County MUA hydrologic projects will continue into FY 2019. Anticipated revenue is calculated using the amount to be paid to the USGS for this monitoring.
5. The Commission is entering its 25<sup>th</sup> year of the Environmental and Economic Long Term Monitoring programs. This anticipated revenue from the National Park Service is based upon that program's projected expenses during the fiscal year and unspent funds from prior years, which are reimbursed in full.
6. In November 2014, the Commission authorized the execution of a Memorandum of Agreement with Richard Stockton College (now University) to establish an alternative permitting process MOA. In accordance with Paragraph III.A.10., Stockton University is obligated to reimburse the Commission for staff costs associated with the development of the MOA and application fees for the review of any development projects conducted under the terms of the MOA.
7. The anticipated revenue from the NJDEP Wetlands Permitting program that the Commission helps to administer reflects the estimated permit fees to be received and is authorized through language in the Appropriations Act.
8. Application Fees of \$430,000 are anticipated to be received during FY 2019. This important component of the Commission's Operating Budget fluctuates tremendously from month to month. This funding source will be closely monitored throughout the fiscal year.

9. In October 2009, the Commission adopted the New Jersey Pinelands Electric Transmission Right-of-Way Maintenance Plan that authorizes the Utility Companies to maintain electric transmission rights-of-way without applying to the Commission. According to the Memorandum of Agreement, the companies pay an annual fee to cover the Commission's inspection and monitoring expenses.

10. The \$3,650 anticipated revenue from the Microfilm Reserve equals the amount being recommended in the expenditure accounts for items relating to permanent record storage, including microfilming and document imaging. The remaining balance in the Microfilm Reserve account will be held in reserve to sustain the future costs of the long term records management project.

11. The FY 2019 anticipated revenue from the Computer Reserve estimated at \$18,420 for Replacement Computers and Replacement Printers.

12. The Fenwick Manor Painting Reserve has been established to earmark funds for the future painting of Fenwick Manor. Funds will be added annually until the project is complete. The current total consists of \$40,000 from FY15; \$40,000 from FY16; \$20,000 from FY17 and \$20,000 from FY18.

13. In April 2005, the Commission adopted a financial plan for the Pinelands Conservation Fund. Included in the plan is an annual assessment of \$20,000 from each of the three programs (see Pinelands Conservation Fund budget note #3). This \$60,000 administrative assessment will finance costs associated with cash management activities, accounting services, procurement services and centralized support services.

14. The projected amount needed from the Undesignated Fund Balance to balance the FY2019 budget deficit is \$848,420. Traditionally, the actual amount drawn from the fund balance at the fiscal year end is lower than anticipated, if even used. The increase in undesignated fund balance is due to the addition of (3) new Science grants that have not incurred the revenue to offset yet. The amount in the Commission's fund balance is sufficient to cover the \$570,563 while leaving enough money to fund unforeseen expenses, emergencies and a similar budget deficit in the next few years.

15. The Commission's authorized staffing level is 66 full time equivalent positions (FTEs). Since FY 2007, unfilled vacancies have steadily increased to a total of 23 unfilled full time equivalent positions, or more than 35% of the authorized staffing level. The FY 2019 salaries and wages budgets (Operating, Kirkwood Cohansey Study and Pinelands Conservation Fund) finance only 42 of the 66 authorized full time equivalent positions.

16. The fringe benefits budget includes expenditures for the employer's share of Social Security (\$185,000), Medicare (\$45,000), disability insurance (\$2,000), flexible savings accounts (\$1,500) and miscellaneous administrative charges (\$1,000). The employer liability of pension related funds is estimated at \$380,000. The Commission's escalating health benefit premiums for active and retired employees are estimated at \$1,225,000 with a \$140,000 reduction for coinsurance payments

from staff members. Also included is \$15,000 for dental insurance premiums and \$900 for participation in the Employee Advisory Service. Lastly, \$150,450 of the total fringe benefits budget is projected to be funded by the Kirkwood Cohansey Study (\$13,260) and the Pinelands Conservation Fund (\$137,190) as shown in those budgets.

Upon Commission approval of the FY 2019 Operating Budget, the Executive Director will be authorized to pay the employer share of Social Security and Medicare at an amount not to exceed the budgeted funding of \$230,000.

17. The printing and office supplies budget includes expenditures for printing; office, computer, mailing, copying, and meeting supplies; office and computer equipment with an item cost of less than \$1,000; reference materials; scientific report printing/publication; and service awards. Grant-related expenses account for \$11,700 of this budget.

18. The majority of the vehicular supplies budget covers gasoline for Commission vehicles. Other costs budgeted in this account include replacement tires, supplies used for routine vehicular maintenance and other miscellaneous supplies such as keys, mats, scrapers and first aid kits. In FY 2010, the Commission's fleet was reduced from seven to five vehicles. However, high gasoline prices have offset some of the savings of a smaller fleet.

19. The household supplies budget provides for the purchase of materials to perform minor buildings and grounds maintenance, cleaning supplies, household paper products, basic kitchen supplies, household equipment costing less than \$2,000 and other operating supplies.

20. The fuel and utilities budget covers expenditures for heating fuel, electricity, water and sewer. During the latter part of FY 2016, the Commission was accepted into the State's cooperative purchasing for electricity and heating fuel.

21. The other supplies budget covers expenditures for supplies and equipment (less than \$1,000) supporting map-making, scientific research, fieldwork, and photographic needs. Grant related expenditures are a significant portion (over 96 %) of this account, totaling \$15,899 for FY2019.

22. The travel budget covers reimbursements to the staff for business mileage on their personal vehicles, tolls and parking, and meal allowances. The majority of the travel budget is used to reimburse Commissioners for business mileage and tolls.

23. The telephone budget includes basic service, toll charges, the service cost of a data circuit, conference calls, and cellular phone service and toll charges.

24. The postage budget finances general postage fees, parcel delivery charges and post office box rental charges. Over the last several years, this account has decreased as more correspondence is sent electronically including public outreach.

25. The insurance budget covers estimated premiums for automobiles, general liability, fire, theft, workers compensation, volunteers and the umbrella liability policy. Through the years, the

Commission has realized premium savings by participating in the States Tort Claims Fund and by including the Commission's buildings under the States property insurance.

Upon Commission approval of the FY 2019 Operating Budget, the Executive Director will be authorized to pay the State's insurance broker an amount not to exceed the budgeted funding of \$63,200.00 to cover the Commission's insurance premiums (\$58,200 from the Operating Budget and \$5,000 from the Pinelands Conservation Fund for related Visitor's Center policies).

26. The FY 2019 budget for information processing includes \$57,760 for software maintenance agreements and data purchases, \$4,500 for payroll processing, \$2,600 for database administration services and \$1,500 for online legal services and \$1,500 for hardware maintenance. Over \$9,550 of this budget is reimbursable through grants or special revenue.

27. The household services budget covers trash removal, alarm (security and fire) monitoring, and exterminating services.

28. The professional services account covers expenditures for legal fees, technical and consulting services, and other miscellaneous services. Estimated costs include \$75,000 for legal fees associated with DAG services, \$175,000 for labor counsel, \$3,000 for the Office of Administrative Law assessment fees. Grant related technical services totaling \$361,158 are budgeted.

29. Expenditures in the other services budget include annual subscriptions (\$1,970), required memberships (\$2,990), and meeting expenses (\$4,300); advertising (\$3,310), research related fees (\$1,456), training (\$16,500), and banking fees (\$1,000).

30. The maintenance buildings and grounds budget for FY 2019 includes additional Tree Cutting at the estimate of \$15,000 and an estimate for a Generator and connection at \$15,000. The remaining \$12,500 is available for minor maintenance services (plumbing, electrical, HVAC, etc.).

31. The maintenance - equipment budget provides for the inspection, maintenance and repair of certain building systems and other equipment. Included is \$15,550 for the buildings' systems (fire equipment, elevator, security, and access), of which the sprinkler in RJS needs replacement. \$8,000 for office equipment, and \$2,000 for scientific equipment and \$1,500 for maintenance equipment.

32. The maintenance vehicular budget finances routine maintenance, vehicular fees, and repairs, including any needed body work not performed by the Commission's Maintenance Technician.

33. Since FY 2011, several changes in the rent other budgets have occurred. In FY2011 a smaller postage machine was rented saving thousands in acquisition, rental and maintenance expenses. The FY 2019 budget includes \$500 for the postage meter, \$5,900 for the lease of (2) black and white copiers, \$100 for excess copy charges, and \$250 for the safe deposit box.

34. The acquisitions - equipment budget contains \$10,528 for scientific equipment supporting grant related projects.

35. The acquisitions - information processing equipment budget includes the replacement computers (\$13,000), a laptop docking station (\$2,000), an Antivirus Server (\$1,000) and replacement Printers (\$6,000) are anticipated to be installed in FY19.

36. The total estimated Operating Budget expenditures for FY 2019 equal \$5,915,074. During the fiscal year, certain unforeseen and/or emergency expenditures may become necessary. The Personnel and Budget Committee has discussed this issue and recommends that the Executive Director be authorized to exceed the budget of an expenditure category (personnel, supplies, services, maintenance/rent, improvements/acquisitions) by no more than 10% provided that funds are available in other expenditure categories to ensure that the total Operating Budget is not exceeded and provided further that the combined salary budgets for the Operating Fund, Kirkwood-Cohansey Study and the Pinelands Conservation Fund do not exceed \$3,326,731.00.

37. Several expenditure account budgets include funding for various services and benefits that are reimbursed to the State of New Jersey and are over the Executive Director's authorized contracting limit of \$40,000. These consist of employee health benefits; the employer liability assessed by the Division of Pensions and the Commission's attorney (DAG) fees.

Upon Commission approval of the FY 2019 Operating Budget, the Executive Director will be authorized to pay the State of New Jersey for the aforementioned items in an amount not to exceed the budgeted funding.

**PINELANDS COMMISSION  
KIRKWOOD COHANSEY AQUIFER ASSESSMENT STUDY  
FISCAL YEAR 2019 BUDGET**

	FY2016 Budget	FY2017 Budget	FY2018 Budget	FY2019 Anticipated	Notes
<b>REVENUE PROJECTIONS</b>					
Interest Income	150	300	1,000	1,000	1
<b>Total Revenue</b>	150	300	1,000	1,000	
K/C Study Fund Balance Anticipated	225,815	152,816	162,792	114,270	2
<b>Total Revenue/Reserve Anticipated</b>	225,965	153,116	163,792	115,270	

Expenditure Account	FY2016 Budget	FY2017 Budget	FY2018 Budget	FY2019 Anticipated	Notes
<b>PERSONNEL</b>					
Salaries & Wages	31,490	37,100	32,100	26,000	3
Fringe Benefits	17,475	17,066	16,692	13,260	4
<b>TOTAL PERSONNEL</b>	48,965	54,166	48,792	39,260	
<b>SUPPLIES</b>					
Printing & Office Supplies	1,500	500	500	500	5
Vehicular Supplies	-	-	-	-	
<b>TOTAL SUPPLIES</b>	1,500	500	500	500	
<b>SERVICES</b>					
Travel	50	50	50	50	
Training	-	-	-	5,000	6
Information Processing	450	400	450	460	
Professional Services	175,000	98,000	114,000	70,000	7
Other Services	-	-	-	-	
<b>TOTAL SERVICES</b>	175,500	98,450	114,500	75,510	
<b>Total Expenditures</b>	225,965	153,116	163,792	115,270	

**PINELANDS COMMISSION**  
**KIRKWOOD COHANSEY AQUIFER ASSESSMENT FUND**  
**FISCAL YEAR 2019 BUDGET NOTES**  
**August 1, 2018**

1. The funds provided from the Water Supply Fund to prepare the Kirkwood Cohansey Aquifer Assessment and Report are kept in a separate cash account. The interest income estimated at \$1,000 stays within the program and is available to help fund the project. This amount is an increase from the last few years due to interest rates slowly rising. The cumulative interest earnings are accounted for as Fund Balance.
2. It is likely that any remaining Fund Balance existing at the end of the fiscal year will be used to support the Commission's development of water supply policies and/or regulations.
3. The FY 2019 salaries and wages budget finances salary expenses of employees who spend time working on this project and are estimated at \$26,000.
4. The fringe benefits budget represents the chargeable benefits calculated using the OMB issued "Employee Benefit" reimbursement rates for FY 2018. (Rates for FY18 have been made available in Circular Letter 18-06-OMB).
5. The printing and office supplies budget of \$500 represents the estimated cost to print and publish the final report.
6. The training budget of \$5,000 represents Mod Flow and other potential training.
7. The professional services budget of \$70,000 represents the continued work of USGS needed in preparation of the final report and associated Programming Services.

**PINELANDS COMMISSION  
KATIE TRUST FUND  
FISCAL YEAR 2019 BUDGET**

Revenue	FY 2018 Budget	FY 2019 Anticipated	Notes
Katie Trust Fund Balance Anticipated	20,638	15,000	1
Total Reserve Anticipated	20,638	15,000	

Expenditure Account	FY 2018 Budget	FY 2019 Anticipated	Notes
Ground Supplies			
Plants & Fencing	9,638	4,000	2
Total Supplies	9,638	4,000	
Services			
Professional Services	10,000	10,000	3
Total Services	10,000	10,000	
Improvements & Acquisitions			
Acquisitions - Furniture	1,000	1,000	4
Total Improvements & Acquisitions	1,000	1,000	
Total Expenditures	20,638	15,000	

**PINELANDS COMMISSION  
KATIE TRUST FUND  
FISCAL YEAR 2019 BUDGET NOTES  
August 1, 2018**

1. This is the anticipated Fund Balance needed to complete the Garden Project.
2. The Ground Supplies budget of \$4,000.00 represents the estimated cost of the plants is \$3,000.00 and Split Rail fencing added between the Garden and Springfield Road to create a perimeter. The estimated cost for the fence is \$1,000.00.
3. The Professional Services budget of \$10,000 represents the New Path in Concrete, Exposed Aggregate or Flagstone.
4. The Acquisitions – Furniture budget is for 2 Memorial Benches that will be purchased.

**PINELANDS COMMISSION  
PINELANDS CONSERVATION FUND  
FISCAL YEAR 2019 BUDGET**

Revenue Source	FY2016 Budget	FY2017 Budget	FY2018 Budget	FY2019 Anticipated	Notes
EPA Grant - Intermittent Ponds	84,000	0	0	0	
EPA Grant - Natural and Created Wetlands	83,000	0	0	0	
Interest Income - Land Acquisition	650	1,500	5,000	6,000	1
Interest Income - Conservation Planning & Research	2,300	4,000	15,000	25,000	1
Interest Income - Community Planning & Design	1,200	1,500	5,000	10,000	1
Interest Income - Education & Outreach	440	1,000	5,000	8,000	1
<b>Total Revenue</b>	<b>171,590</b>	<b>8,000</b>	<b>30,000</b>	<b>49,000</b>	
Cancellation of Prior Year Encumbrances	0	0	0	0	
Reserves for Pinelands Conservation Activities	1,840,204	1,808,792	1,252,675	814,397	2
<b>Total Revenue/Other Sources Anticipated</b>	<b>2,011,794</b>	<b>1,816,792</b>	<b>1,282,675</b>	<b>863,397</b>	

Expenditure Account	FY2016 Budget	FY2017 Budget	FY2018 Budget	FY2019 Anticipated	Notes
<b><u>Land Acquisition</u></b>					
Salaries & Wages	84,029	12,320	12,000	5,000	
Fringe Benefits	42,380	5,667	6,120	2,550	
Information Processing	1,600	1,000	225	0	
Professional Services	25,000	0	0	0	
Land Acquisition	750,000	600,000	500,000	276,457	
Administrative Assessment	20,000	20,000	20,000	0	3
<b>Total Land Acquisition Expenditures</b>	<b>923,009</b>	<b>638,987</b>	<b>538,345</b>	<b>284,007</b>	4

<b><u>Conservation Planning and Research</u></b>					
Salaries & Wages	222,629	284,785	168,000	157,000	
Fringe Benefits	113,704	131,001	85,680	80,070	
Printing & Office Supplies	100	700	250	0	
Household Supplies (clothing)	1,300	1,100			
Other Supplies	1,844	1,526			
Travel	9,000	7,150	4,175	1,702	
Information Processing	5,700	7,000	6,628	5,538	
Technical Services	70,000	136,600	54,353	70,000	
Professional Services	100,000				
Other Services	2,000	2,100	2,100	300	
Acquisitions - Equipment					
Acquisitions - Information Processing Equipment					
Administrative Assessment	20,000	20,000	20,000	20,000	3
<b>Total Conservation Planning/Research Expenditures</b>	<b>546,277</b>	<b>591,962</b>	<b>341,186</b>	<b>334,610</b>	5

<b><u>Community Planning and Design</u></b>					
Salaries & Wages	62,217	61,000	106,000	62,000	
Fringe Benefits	31,910	28,060	54,060	31,620	
Printing & Office Supplies	150	100	125	385	
Other Supplies					
Travel	100	50	25	154	
Postage	250	250	200	250	
Information Processing	2,570	1,370	923	500	
Other Services	150	150	21,200	200	
State Aid and Grants					
Administrative Assessment	20,000	20,000	20,000	20,000	3
<b>Total Community Planning/Design Expenditures</b>	<b>117,347</b>	<b>110,980</b>	<b>202,533</b>	<b>115,109</b>	6

<b><u>Education and Outreach</u></b>					
Salaries & Wages	34,749	40,000	62,000	45,000	
Fringe Benefits	17,791	18,400	31,620	22,950	
Printing & Office Supplies			650	500	
Other Supplies	2,500	1,500	1,450	900	
Information Processing		0			
Other Services	350,121	394,963	84,891	40,321	
Administrative Assessment	20,000	20,000	20,000	20,000	3
<b>Total Education and Outreach</b>	<b>425,161</b>	<b>474,863</b>	<b>200,611</b>	<b>129,671</b>	7

<b>Total Expenditures</b>	<b>12,011,794</b>	<b>1,816,792</b>	<b>1,282,675</b>	<b>863,397</b>	
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**PINELANDS COMMISSION  
PINELANDS CONSERVATION FUND  
FISCAL YEAR 2019 BUDGET NOTES  
August 1, 2018**

1. The funds provided from Atlantic City Electric (formerly Conectiv) and other related revenue sources are kept in four separate cash accounts, one for each program of the Fund. The FY 2019 estimated interest income totals \$49,000 and is comprised of interest income from the four cash accounts. All interest income stays within the particular program and is available to help fund the various projects.
2. The difference between the revenues and expenditures for the year, estimated at \$814,397 is financed from the Reserves for Pinelands Conservation Activities. Each of the four programs (Land Acquisition, Conservation Planning and Research, and Community Planning and Design, Education and Outreach) has its own reserve account.
3. The financial plan that designated the three original programs within the Fund (Land Acquisition, Conservation Planning & Research and Community Planning & Design) was approved by the Commission in April 2005 and includes a \$20,000 annual assessment from each program to cover administrative expenses as described in Operating Budget note #13. The Commission amended the PCF policies in 2014 to include a fourth program, Education & Outreach, from which a \$20,000 annual administrative assessment is also drawn. FY 2019 will see the removal of the annual assessment from the Land Acquisition program.
4. The Land Acquisition program budget for FY 2019 totals \$284,007. Personnel costs (salaries/wages and fringe benefits) are estimated at \$7,550 in support of the Commission's permanent land protection initiatives. Land acquisitions could total up to \$276,457.
5. The Conservation Planning and Research program budget for FY 2019 totals \$334,610. Personnel costs (salaries/wages and fringe benefits) are estimated at \$237,070 to support the following initiatives and special projects: implementation of the rapid landfill assessment, implementation of the alternate septic system pilot program / septic system management, the roadside plants management project, management of threatened and endangered species data and rule making for the Black Run watershed. Also included in this year's budget is \$65,000 for technical services from the USGS for the created wetlands and Barnegat Bay stormwater projects. Miscellaneous expenses (interns, software, mileage, reference books, training, and scientific supplies and equipment) supporting the conservation planning and research program equal \$12,540. Rounding out the budget is the \$20,000 administrative assessment mentioned above.
6. The Community Planning and Design program budget for FY 2019 totals \$115,109. Personnel costs (salaries/wages and fringe benefits) are estimated at \$93,620 to support the following initiatives and special projects: review and implementation of the Forest and Rural Development Area clustering rules, proposal of the Pinelands Development Credit enhancement rules, administrative responsibilities supporting the Pinelands Development

Credit Bank, administration of the Pinelands Infrastructure Trust Fund and coordination of activities related to the Pinelands Scenic Byway. Miscellaneous expenses (software, postage, printing, supplies, meeting expenses and legal advertisements) supporting the program equal \$1,489. Rounding out the budget is the \$20,000 administrative assessment mentioned above.

7. The Education and Outreach program budget for FY 2019 totals \$129,671. Personnel costs (salaries/wages and fringe benefits) are estimated at \$67,950 to support the opening/operation of the Ashmun Exhibit Center and the following special projects: the Pinelands Short Course and the Brotherton archaeological excavation. There is additional cost anticipated for the Exhibit Center estimated at \$35,121. Also included is \$5,500 for supplies and technical services related to the Brotherton excavation. Miscellaneous expenses (supplies and mileage) supporting the program equal \$1,100. Rounding out the budget is the \$20,000 administrative assessment mentioned above.



**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-18- 28

**TITLE:** To Approve the New Jersey Pinelands Commission's 2017 Annual Report

Commissioner Lohbauer moves and Commissioner Prickett seconds the motion that:

WHEREAS, in September 2006, then Governor Corzine issued Executive Order #37; and

WHEREAS, Executive Order #37 called for the preparation and approval of a comprehensive report concerning the operations of each State authority; and

WHEREAS, the report shall set forth the significant actions of the Commission; and

WHEREAS, since the report is to be done on an annual basis and it includes much of the same information as the Commission's Annual Report, which is required by the Pinelands Protection Act, the two reports have been combined since 2007 as a cost savings measure to eliminate waste and promote efficiency as called for in Executive Order #37; 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 attached 2017 Annual Report be approved, submitted to the Governor's Authorities Unit and posted on the Commission's web site.

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**Record of Commission Votes**

	AYE	NAY	NP	AR*		AYE	NAY	NP	AR*		AYE	NAY	NP	AR*
Ashmun	X				Howell	X				Prickett	X			
Avery	X				Jannarone			X		Quinn				X
Barr	X				Lloyd	X				Rohan Green				X
Chila	X				Lohbauer	X				Earlen	X			
Galletta			X		Pikolycky	X								

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: August 10, 2018

Nancy Wittenberg  
Nancy Wittenberg  
Executive Director

Sean W. Earlen  
Sean W. Earlen  
Chairman