

Disclaimer

These minutes reflect the actions taken by the Commission during its April 8, 2011 meeting. Although these minutes have been approved by the Commission, no action authorized by the Commission during this meeting, as reflected in these minutes, shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of these minutes has been delivered to the Governor for review, unless prior to expiration of the review period the governor approves same, in which case the action shall become effective upon such approval. These minutes were delivered to the Governor on April 29, 2011.

PINELANDS COMMISSION MEETING¹
Richard J. Sullivan Center
Terrence D. Moore Conference Room
15 Springfield Road
New Lisbon, New Jersey

Minutes

April 8, 2011

Commissioners Present

William Brown, Paul E. Galletta, Robert Jackson, Daniel M. Kennedy, Judith Y. Link, Ed McGlinchey, Francis A. Witt, John A. Haas, and Acting Chairperson Candace Ashmun. Also present were Executive Director Nancy Wittenberg, Authorities Unit Liaison David Reiner and Deputy Attorney Jean Reilly

Commissioners Absent

Leslie Ficcaglia, Richard L. Harris, and Edward Lloyd

Acting Chairperson Ashmun called the meeting to order at 9:34 A.M.

Ms. Reilly read the Open Public Meetings Act Statement.

Ms. Wittenberg called the roll and announced the presence of a quorum.

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

Minutes

Acting Chairperson Ashmun presented the March 11, 2011 Commission meeting minutes (open and closed sessions). Commissioner Galletta moved the adoption of the minutes. Commissioner Jackson seconded the motion noting a typographical error on page PC2-27

¹ Please note that all attachments are maintained with the original minutes, but are not attached to copies. For information about attachments, please contact the office.

incorrectly indicating that Resolution PC4-11-09 had been adopted by a vote of 8 to 0 with Commissioners Link and McGlinchey voting No. It should have read *by a vote of 8 to 2 with Commissioners Link and McGlinchey voting No.*

With that correction, the Commission adopted the minutes by a vote of 9 to 0.

Committee Chairs' and Executive Director's Reports

Personnel & Budget Committee

Commissioner Witt read the report of the March 21, 2011 Personnel and Budget Committee as follows:

1. **Adoption of minutes from the December 27, 2010 Personnel and Budget Committee meeting** – Adopted
2. **Resolution: To Authorize the Executive Director to Modify the Cooperative Agreement with the National Park Service for Pinelands Monitoring-** This is the annual allocation of funding from the National Park Service for the long term environmental and economic programs. The budgetary allotment to each program and the ongoing parameters and possible special projects of the economic program were discussed. Following the discussion, the Committee unanimously recommended Commission approval of the resolution.
3. **FY 2010 Financial Statements Prepared by the Commission's Accountant** – These documents were presented to the State auditors by the Audit Committee at the pre-audit conference and are currently being audited. Donna Connor noted some items on the balance sheet and the income statement. The committee will see these documents in final form as a part of the FY2010 audit report.
4. **Financial Updates**
Check Registers (December 2010-February 2011) – the registers were reviewed including the need to add to the Reserve for Unemployment compensation.
Electronic Funds Transfer (EFT) Disbursements (December 2010-February 2011) – reviewed
Application Fees Update – The fees received are in line with the budgeted amount.
FY 2012 Budget Update – Donna Connor provided an update on the appropriation included in the Governor's budget and the continued credit for fringe benefits. Managers are beginning the work plan process.
5. **Public Comment** – Some questions regarding the long term economic monitoring program were answered by Larry Liggett.
6. **Other Items of Interest** –
 1. December 2010-February 2011 employee actions were reviewed.
 2. Ms. Wittenberg discussed ideas regarding reorganization changes.
 3. Options regarding the need of a custodial bank were discussed.
 4. Ms. Wittenberg mentioned that shared services with DEP are being reviewed including customer service/management training and software licenses.
7. **Closed Session** – Not needed.

Public and Governmental Programs Committee

Commissioner Galletta read the following report from the March 21, 2011 Public and Governmental Programs Committee meeting:

The existing MOA between the Commission, Buena Vista Township and the Buena Borough Municipal Utilities Authority (MUA) was signed on July 20, 2007. The Buena Borough Wastewater Treatment Plant, which was constructed before the establishment of the Commission, had been directly discharging treated wastewater into an adjacent stream in violation of the standards of the CMP. The MOA was intended to eliminate the discharge to the stream. The MOA proposed to utilize a 61 acre recharge site located in a Pinelands Agricultural Production Area where the proposed use was not permitted.

Commission staff indicated that to date, the MUA had acquired the 61 acre recharge site and deed restricted 232 acres as an environmental offset. The MUA also obtained funding for the recharge facility from the US Rural Development Administration (USRDA). US Geological Survey (USGS) recently determined that, because of existing soil conditions, the 61 acre site was unsuitable for the proposed recharge facility.

The Commission staff recommended amending the existing MOA to allow a proposed wastewater treatment plant upgrade to meet a 2 ppm standard for total Nitrogen, instead of the previously proposed recharge site, to address the stream discharge issue. Committee members indicated that Commission staff should return to the Committee with additional information.

Executive Director's Report

Ms. Wittenberg reported on the following:

She noted that earlier in the week the Commission members had received via email a letter from President Herman Saatkamp of the Richard Stockton College of New Jersey apologizing for violations. She noted that she, Mr. Liggett and Mr. Deman had met with Dr. Saatkamp and other Stockton staff members and found it to be a productive meeting. She said that they had toured the areas where violations had occurred and felt satisfied that, now that the College has a better understanding of the Commission's permitting process, they have a better understanding of application requirements. She said that this appeared to have been a notification issue and she hoped that the Commission would find the letter adequate. Dr. Saatkamp has offered to appear before the Commission himself if they wished him to do so.

Commissioner Ashmun said that she felt that the Commission could accept the letter graciously.

Ms. Wittenberg said that she had spoken before the Burlington County Alliance for Action, when their invited speaker, Commissioner Witt, had a conflict. She noted that she had met with the Pemberton mayor at that event which was helpful in that she is trying to meet with all the Pinelands mayors.

Commissioner Witt noted that Ms. Wittenberg's presentation had been well received.

Ms. Wittenberg stated that she had met recently with Highlands Council Executive Director Eileen Swan and, as she had mentioned previously, although the legislative authorization of the two agencies, as well as that of the Meadowlands Commission, is different, there is an interest among all three entities in working together.

Ms. Wittenberg said that she and Mr. Joel Mott had each attended meetings for the Coastal Heritage Trail. She said that although this was not a Pinelands project, there is a good connection as portions of the Trail overlap with the Pinelands Area and there is a link to the Pinelands Scenic Byway. Their funding is due to expire shortly and they are looking for support.

Chairperson Ashmun suggested that the Commission might offer a letter of support.

Ms. Wittenberg said that she, Ms. Roth, and Mr. Horner had met with the Assistant DEP Commissioner for the Division of Parks and Forestry last week in a continuing effort to resolve issues regarding the previously agreed to MOA. The revised MOA will then go before the Public and Governmental Programs Committee.

Commissioner Ashmun said that, if there are substantive changes, she felt that the MOA should be reviewed by the Forestry Advisory Committee (FAC).

Ms. Wittenberg said that she felt that the Commission would find some of these changes significant although she did not believe that the underlying goals have changed. Because of the public process, there would be time for review by the FAC.

Ms. Wittenberg noted that the quarterly management report was scheduled to be included in the April meeting packet. However, she had asked Mr. Leakan to take the lead in revising the report to make it a less cumbersome document. It will be available in May.

Ms. Wittenberg said that she has arranged for meetings with the mayors of Pemberton, Ocean and Waterford Townships in late April/early May to advance her goal of meeting all Pinelands mayors, starting with those who have approached her first.

Ms. Wittenberg recognized the work of Mr. Leakan and Mr. Mott in the presentation of the annual Pinelands Short Course and noted that it was a huge undertaking and a very worthwhile program. She noted that other staff members including Ms. Wood and Ms. Piner had volunteered to assist at the event.

Mr. Leakan thanked Ms. Wittenberg for her kind remarks and said that the 26th annual Pinelands Short Course had been held on March 26, 2011 at Burlington County College with approximately 600 people in attendance and 42 different presentations. For the first time, a canoe trip on the Rancocas Creek was offered. He particularly noted the well received presentations by Mr. Bunnell. He said that it was important to note that staff of the PINES program at BCC were much of the reason it was such a great event.

Ms. Wittenberg said that at the April 26, 2011 meeting of the Public and Governmental Programs committee, the group (Content Design Collaborative, LLC) awarded the contract for the design of the Interpretive Center, will be making a presentation before the Committee. Their contribution is only for the *design* of the center; now the Commission will need to find the funding to implement that design.

Other Staff Reports

Mr. Liggett reported on the following:

The proposed CMP amendments related to the siting of solar facilities are scheduled for publication in the April 18, 2011 issue of the New Jersey Register. A public hearing has been scheduled for 7 PM on May 19, 2011. He said that there continue to be a lot of inquiries and applications to the Commission for the siting of solar facilities and staff has been receiving new information and questions for consideration.

He said that after much effort on the part of staff, including that of Ms. Wittenberg, Jackson Township had finally submitted a letter requesting a deferral of Commission action on an ordinance that had been submitted for certification. This ordinance undermines the PDC program in the RGA, raising considerable concern. It is likely that the Township will submit a new ordinance to address issues raised by staff.

Mr. Liggett thanked Ms. Roth who had agreed to speak on his behalf regarding the Pinelands Density Transfer Program at the recent Land Trust Rally.

Commissioner Ashmun noted that she had seen the presentation and that Ms. Roth had done an excellent job.

Mr. Liggett's final item was that he had hosted several visitors from Australia last week who had come to learn about the PDC program.

Mr. Horner reported on the following:

He complimented Ms. Ward for efforts in dealing with very complex matters regarding development projects at the Woodbine Airport. Most of the projects that had been proposed originally would not require an MOA and, for now, the airport runway extension that had been under consideration will be set aside.

Mr. Horner said that on March 30, the Department of Transportation had indicated an interest in an MOA to allow a streamlined permitting procedure for some public development projects under an agreement similar to that signed by the Commission and the Pinelands counties.

Mr. Horner said that he had met with Jackson Township officials and Assemblyman Dancer regarding a shooting range application in the Township. He said that staff had clarified the application requirements and he said that the Certificate of Filing for the project would be issued shortly.

Mr. Horner said that previously Maurice River Township had opted to discontinue its participation in the Local Review Officer program. During a recent discussion with Planning Board Secretary, Ms. Barbara Sutton, it appears that they now wish to implement the program again. This should not be a problem as they have an adopted ordinance providing for the program.

Mr. Horner said that the Oaks of Weymouth is a 600 unit project in the FA that had received a Waiver of Strict Compliance in the early 1980's. That Waiver had expired in the mid 1990's. Construction has continued and staff will be looking into the status of their permits as the applicant believes that all the permits have been secured to keep the Waiver alive. In response to a question from Commissioner Jackson, he said that these approvals are not affected by the Permit Extension Act.

Ms. Roth noted that the Commission members are now required to submit their financial disclosure forms online and they are due by May 18, 2011. She thanked Commissioner Brown for advising her of the need for electronic filing as she had not been aware of that obligation. However, she did offer to assist any Commissioner if they felt they needed help as Ms. Nadine Young (long time Executive Secretary for some 30 years) had always handled these forms in the past.

The Commission discussed the inconsistent mapping of sewer service areas by the Pinelands Commission and DEP. Ms. Wittenberg said that she had discussed this matter with DEP Commissioner Martin and that the Commission was fully engaged at all levels of DEP in resolving the discrepancies.

Public Development Projects and Other Permit Matters

Mr. Horner presented a public development resolution for the New Jersey State Police.

Commissioner Ashmun said that this is a cure of a violation at the site (the construction of a training tower).

Mr. Horner concurred that the tower had been a violation but that the new building, also a subject of this application, had not yet been built.

Commissioner Galletta moved the adoption of the Resolution Approving With Conditions an Application for a Public Development (Application Number 1993-0918.003). (See Resolution #PC4-11-10 attached). Commissioner Brown seconded the motion.

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

Public Comment on Agenda Items

Ms. Theresa Lettman, with the Pinelands Preservation Alliance (PPA), stated that, at the March 21, 2011 meeting of the Personnel and Budget Committee, she had asked some questions about the Long-Term Economic Monitoring program and report. She said that she felt that the economic portion was important as the Pinelands Commission is the only regional planning agency looking at both the economic and environmental impact of the CMP. She said that she had more questions.

Miscellaneous Resolutions

Ms. Connor presented the resolution regarding the National Park Service (NPS) funding for the Long-Term Economic and Environmental Monitoring programs. She said that this is the annual modification and the Commission will be awarded \$267,300 for the monitoring programs, the same amount as last year. She said that this is a draft agreement as she has been told that there might be changes in the amount. Combined with the funds remaining from last year along with other sources, this will provide adequate funding to last until the end of 2012.

In response to Commissioner Kennedy's question if this would limit the Commission's capacity to continue its research, noting that he agreed with the public comment offered by Ms. Lettman, Ms. Connor said that it is the funding that allows the program to continue.

Commissioner Ashmun stated that it is one of the most important projects to implement the Federal Act.

Commissioner Galletta said that previously the Commission had discussed the bifurcation of the Pinelands and non-Pinelands portions of split municipalities to get a better snapshot of what is occurring in the Pinelands Area.

Mr. Liggett says that staff tries to do that to the limited extent possible. He said that the difficulty is that it depends upon the availability of the data and how they are gathered, e.g., for parcel data, an attempt to match construction permits with the Commission's No Call-Up letters was flawed because of the lag time of some projects. Likewise a problem occurs with agriculture data where some information is available only at the county level. He said that staff will continue to look for ways to do the inside/outside comparison. He

introduced Mr. Paul Tyshchenko and Mr. Michael Yaffe of the Planning Staff who are now responsible for the Long-Term Economic Monitoring annual report.

Commissioner Haas asked if perhaps there were a single town that could be monitored to which Mr. Liggett responded that the staff would try to find a municipality with better data.

Commissioner Kennedy suggested that this might be a good agenda item for either the Policy and Implementation or Public and Governmental Programs Committee. He said that using data from the entire municipality, without being able to separate the Pinelands portion, subjects the Commission to criticism that the data are not trustworthy.

Commissioner Haas moved the adoption of the Resolution to Authorize the Executive Director to Modify the Cooperative Agreement with the National Park Service for Pinelands Monitoring. (See Resolution #PC4-11-11 attached). Commissioner Kennedy seconded the motion.

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

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

Mr. Fred Akers, Administrator of the Great Egg Harbor Watershed Association, stated that he had been appointed to the Atlantic County Utilities Authority Board of Directors. He said that he was a regular attendee at the Pinelands Short Course and was impressed by the variety of speakers, noting that he had been particularly impressed by the program on American Eels. He distributed two NJ DEP Fact Sheets (*to File Copy only*): <http://www.state.nj.us/dep/wms/bwqsa/factsheet2.pdf> and <http://www.state.nj.us/dep/wms/bwqsa/factsheet1.pdf>. Mr. Akers noted his concerns with the discussion of allowing discharge of treated sewage into Pinelands streams, something the Commission had never considered previously. Regarding economic issues, Mr. Akers said that frequently he heard developers criticizing environmental regulations as limiting to economic growth. He said that the Long Term Economic Report addresses those concerns and that he felt these complaints were greatly exaggerated. He noted that some time ago, Tom Carver, Executive Director of the Casino Reinvestment Development Authority (CRDA), spoke before the Commission claiming that with the development of the mega-casinos in the coming years, the Pinelands would have to provide for some 40,000 new casino employees. In fact, within the last five years, some 10,000 jobs have been lost. Similarly, the Buena Borough MUA is claiming that they need increased capacity and yet that might not be necessary either.

Mr. Carleton Montgomery, Executive Director, PPA, said that this was yet another meeting at which the issue of public comment limitations had not been addressed. He said that the system is not working and yet it appears that the Commission has no interest in resolving his concerns. He said that the FAC must review the changes to the MOA with DEP regarding forestry. He said that PPA is unhappy with the DEP revisions. He said that they had raised no objections to the original MOA and are now requesting

changes. The Commission should take advantage of the wide range of expertise on the FAC. He stated that he had always found the detailed management reports very helpful and he preferred to have more information, not less. Furthermore he preferred having it updated monthly, rather than quarterly. Finally he noted the untimely passing of former Congressman John Adler earlier this week whom he described as an unabashed environmentalist.

Commissioner Kennedy stated that although he no longer worked for Burlington County and was with the NJ Department of State, he believed that he could still speak effectively on behalf of Burlington County.

Commissioner Haas noted that the NJDEP Department of Fish and Game had just opened an area of the PNR portion of the Mullica River for oyster harvesting by the public.

Commissioner Galletta asked if it would be more efficient to increase the expiration date of LOIs.

Mr. Horner responded that some five years ago the regulations were amended to increase the expiration date from one year to two. He said that staff would take a look at this issue. He said currently LOIs are issued only for PDC allocations and wetlands delineations.

Commissioner McGlinchey commented on one of the articles distributed in the press clipping packet.

Closed Session Resolution

DAG Reilly read a resolution to retire into closed session to discuss litigation matters (O'Brien, Sanctuary, Buena Realty) at 10:35A.M.

Commissioner Haas moved to retire into closed session. Commissioner Jackson seconded the motion. The Commission agreed to retire into closed session by a vote of 9 to 0.

Return to Open Session

Acting Chairperson Ashmun reopened the public portion of the meeting at 11:18 a.m.

DAG Reilly indicated that, in closed session, the Commission had discussed matters related to O'Brien, the Sanctuary and a Stipulation of Settlement with Buena Vista Realty.

Ms. Roth said that this last matter relates to the Commission's call-up of a minor subdivision approval by the Buena Vista Township Planning and Zoning Board. That approval authorized the creation of a 2.7 acre lot, which, along with its remainder lot and adjoining lots in common ownership comprised the pre-existing campground, Buena

Vista Camping World. The reduction in acreage caused by this subdivision has reduced the acreage available for septic dilution for the campground thus further deteriorating groundwater quality. The Stipulation of Settlement requires the owner to deed restrict 6 acres of land within the same watershed as the campground and to hook up an existing home on the remainder lot to the Township sanitary sewer system. The Stipulation of Settlement will ensure that groundwater quality in the watershed in which the campground is situated does not deteriorate further as a result of the subdivision.

Ms. Roth presented the Resolution Authorizing the Executive Director to Execute a Stipulation of Settlement in the Administrative Matter Before the Office of Administrative Law Entitled Buena Realty, LLC v. New Jersey Pinelands Commission (OAL Docket No. EPC 12265-09, Pinelands Application No. 1986-049.006). She noted that the resolution that the Commission will adopt today will be revised slightly from the version included in the meeting packet as it will indicate that the Stipulation of Settlement” which the Executive Director will be executing will be “in substantially the same form” as that attached to the resolution.

Commissioner Witt moved the adoption of the Resolution Authorizing the Executive Director to Execute a Stipulation of Settlement in the Administrative Matter Before the Office of Administrative Law Entitled Buena Realty, LLC v. New Jersey Pinelands Commission (OAL Docket No. EPC 12265-09, Pinelands Application No. 1986-049.006) with the modification indicated by Ms. Roth. (See Resolution #PC4-11-12 attached). Commissioner Jackson seconded the motion.

The Commission adopted the resolution by a vote of 8 to 1 with Commissioner McGlinchey voting No.

Adjournment

Commissioner Haas moved to adjourn the meeting. Commissioner Witt seconded the motion. The Commission agreed to adjourn the meeting at 11:20 A.M.

Certified as true and correct:

Betsy Piner, Principal Planning Assistant

Date: _____