

Disclaimer

These minutes reflect the actions taken by the Commission during its September 9, 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 September 23, 2011.

PINELANDS COMMISSION MEETING<sup>1</sup>  
Richard J. Sullivan Center  
Terrence D. Moore Conference Room  
15 Springfield Road  
New Lisbon, New Jersey

MINUTES

**September 9, 2011**

Commissioners Present

Candace Ashmun , William Brown, Sean Earlen, Leslie Ficcaglia, Paul E. Galletta, John A. Haas, Robert Jackson, Edward Lloyd, Ed McGlinchey, Gary Quinn, Francis A. Witt and Chairman Mark S. Lohbauer. Also present were Executive Director Nancy Wittenberg and Authorities Unit Liaison David Reiner. Attending by tele-conference was Deputy Attorney General Jean Reilly.

Commissioners Absent

D'Arcy Rohan Green and Richard L. Harris

Chairman Lohbauer called the meeting to order at 9:36 a.m.

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

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

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

## Minutes

Chairman Lohbauer presented the August 12, 2011 Commission meeting minutes. Commissioner Ashmun moved for the adoption of the minutes. Commissioner Jackson seconded the motion.

The minutes of the August 12, 2011 meeting were adopted by a vote of 11 to 0 with Commissioner Jackson abstaining.

Chairman Lohbauer expressed his gratitude to Commissioner Ashmun for her term as Acting Chair and presented her with a framed picture of the Pinelands as a token of thanks.

Commissioner Ashmun stated she was grateful to have a Chair appropriately appointed to the Commission.

Chairman Lohbauer stated that Commissioner Ashmun will continue to sit on the Board of Directors for the Pinelands Development Credit Bank. Commissioner Lohbauer also noted that the By-Laws require the Commission to hold an annual re-organization meeting, which is typically held in July. Since the re-organization did not occur this July, he asked that the re-organization be put on the agenda for the October meeting. At that time, the Commission will vote to select the Vice-Chair and will announce any Committee appointments. Chairman Lohbauer asked that if Commissioners had an interest in specific Committee assignments he would like to hear from them.

## Committee Chairs' Reports

Commissioner Ashmun noted that the PDC Bank Board held a meeting and approved an MOU to restore activity at the Bank. Susan Grogan will be the Executive Director.

Commissioner McGlinchey added that he hopes the Bank will stay with the Commission and not be moved elsewhere.

Commissioner Haas reported the following from the August 26, 2011 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the May 23, 2011 meeting of the Public and Governmental Programs Committee (open and closed sessions) and the May 27 meeting of the Policy and Implementation Committee.

The Committee received an update on acquisition projects from Conservation Resources, Inc. and agreed to provide funding to the Trust for Public Land in advance of closing for the Clayton project in Jackson Township. The Committee also discussed the Wollman project in Medford Township. The original amount of PCF money allocated to this project was approximately \$700,000 or 33.3% of the fair market value, whichever is less. The certified fair market value was much lower than originally expected, and the number of acres to be acquired has also been reduced. The applicant nevertheless requested a slight

increase of the percentage of funding, from 33.3 to 35.2%, for a total of \$436,563. The Committee approved this revised allocation.

The Committee received an update on Pinelands land protection initiatives and was presented with an updated open space map and various figures describing acquisition in recent years.

The Committee recommended that the Commission adopt CMP amendments related to the siting of solar energy facilities.

The Committee recommended the reappointment of the following members of the Pinelands Educational Advisory Council (PEAC): Michael Fowler, Ellen Mushinski, Norma Spice, Michael A. Hunninghake and John Volpa.

The Committee received an update from Content-Design Collaborative on the proposed exhibit area in the Richard J. Sullivan Center.

#### Executive Director's Report

Ms. Wittenberg read the Open Public Meetings Act Statement on behalf of DAG Reilly.

Ms. Wittenberg opened her briefing by reporting on recent actions related to the Southern Pine Beetle, adding that she continues to work on setting up a field visit for Commissioners.

On August 23, 2011, John Bunnell and Ms. Wittenberg attended a field visit in Winslow Township to observe Southern Pine Beetle infestations and treatments.

John Bunnell provided a slide show of pictures and maps which exhibited both the location of infestations and methods of suppressing Southern Pine Beetles.(See attached slides)

Ms. Wittenberg stated that DEP has issued an RFP to get additional assistance to suppress the Southern Pine Beetle. Ms. Wittenberg informed the Commission about her attendance at a Senate Environment and Energy Committee meeting that was convened by Senator Smith. She noted that, during the meeting, a forester criticized the DEP and the Pinelands Commission for hindering efforts to combat Southern Pine Beetles. Ms. Wittenberg said the Southern Pine Beetle issue is being used to support the argument that the Pinelands Commission should not regulate forestry, but rather forestry should be treated more like agriculture.

Ms. Wittenberg asked that Commissioners let her know who was interested in participating in a site visit to see damage wrought by Southern Pine Beetles, noting that she will continue to work with DEP on this matter. A Forestry Advisory Committee meeting is also being scheduled.

Ms. Wittenberg informed Commissioners that the emergency agreement with DEP required a "cut and leave" approach, however, DEP may now prefer to remove the wood (cut and

salvage) because of the value of the wood. She said this is especially important on private lands.

Ms. Wittenberg stated that the Personnel and Budget Committee meeting was cancelled as a result of Hurricane Irene, which caused the power and phone lines to fail at the Commission's office.

#### Other Staff Reports

Mr. Liggett updated the Commission on a number of items:

- ? The Agricultural Advisory Committee is scheduled to meet on September 27, 2011; there are a number of concerns regarding updating membership.
- ? At the next Policy and Implementation Committee meeting, four new septic systems will be discussed and possibly recommended for participation in the Alternate Septic system Pilot program.
- ? T-Mobile has set up an escrow account with the Commission; we will hire a radio frequency expert to determine if there is a need for all of the new towers in the proposed Amendment.
- ? As part of the amendment to the MOA for the Stafford Landfill, the redeveloper has agreed to give the Commission funding to research landfills and possible closure methods.
- ? PPA will be holding a water-supply planning seminar based on the upcoming completion of the Kirkwood Cohansey Study.
- ? The Stockton draft MOA is currently being reviewed by the college, it will be coming back to the P&I Committee for review before a final vote by the Commission.
- ? The Permanent Land Protection map has been updated, reflecting 433,000 acres of permanently protected land in the Pinelands Area.

Mr. Horner discussed some noteworthy development applications that the Regulatory Programs Department is currently handling, including:

- ? A cell tower application at an uncapped landfill in the Borough of Lakehurst
- ? Drainage improvements at a State park proposed by a Boy Scout

#### Public Development Projects and Other Permit Matters

Commissioner Ficcaglia moved the adoption of a Resolution Approving With Conditions Applications for Public Development (Application Numbers 1981-1833.062, 1996-1089.007 & 2003-0403.001 (See Resolution # PC4-11- 28). Commissioner Haas seconded the motion.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Galletta moved the adoption of a Resolution Approving With Conditions Requests for Waivers of Strict Compliance (Application Numbers 1983-5712.002 and 1997-0056.001) (See Resolution # PC4-11-29). Commissioner Witt seconded the motion.

The Commission adopted the resolution by a vote of 11 to 0. (Commissioner McGlinchey stepped out of the room while the vote took place.)

Mr. Horner gave a brief overview of Waivers of Strict Compliance, as permitted under the Pinelands Comprehensive Management Plan.

#### Planning Matters for Commission Consideration

There were no Planning matters for consideration.

#### Resolutions Relating to Municipal Ordinances

There were no resolutions relating to municipal ordinances.

#### CMP Amendments

Chairman Lohbauer stated the Governor's office has not completed its review of the solar rules, so the Commission will not be voting on the rules today.

Ms. Wittenberg added that the Governor's office feels there are some inconsistencies regarding the Energy Master Plan and Farmland Assessment, although these were both taken into consideration when the rules were being drafted and proposed.

Commissioner Ashmun moved to table the Adoption of the Proposed Amendments to the Comprehensive Management Plan (Solar Energy Facilities). Commissioner Jackson seconded the motion.

The Commission tabled the resolution by a vote of 11 to 1 with Commissioner McGlinchey voting no.

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

Ocean Township Mayor Joseph Lachawiec expressed his frustration with his Township's application for solar facilities at the landfill. He stated that back in March 2009, he first filed his application and has gone back and forth with pursuing both an MOA and public development application. Ultimately, he is anxious to see the Commission adopt the solar rules so that his Township can proceed with plans to install solar facilities on their landfill.

Mr. Lee Rosenson, with Pinelands Preservation Association and The NJ Audubon Society, welcomed new Chairman Mark Lohbauer and commended Commissioner Ashmun during her tenure as Acting Chair.

Chairman Lohbauer called for a motion to close public comment. Commissioner Ficcaglia moved to close the public comment portion of the meeting; Commissioner McGlinchey seconded, and all voted in favor.

#### Miscellaneous Resolutions

Commissioner Lloyd moved to adopt a resolution To Approve the Pinelands Commission's 2010 Annual Report (See Resolution # PC4-11-30). Commissioner Jackson seconded the motion, and all were in favor.

Ms. Wittenberg referred to the resolution on the agenda concerning the PDC Bank. She explained that the Memorandum of Understanding was approved at the September 7, 2011 Bank Board meeting. She said further discussions about consolidating the Highlands, State TDR and PDC Bank may need to take place.

Commissioner Ashmun emphasized that the three banks (Highlands, State TDR and PDC) were all created under separate legislation and it is vital that the Bank remains under the Commission.

Commissioner Haas moved to adopt the resolution To Approve a Memorandum of Understanding between the Pinelands Commission and the Pinelands Development Credit Bank Board Regarding Operation of the Pinelands Development Credit Bank (See Resolution # PC4-11-31). Commissioner Witt seconded the motion, and all were in favor.

#### Ordinances Not Requiring Commission Action

No Discussion took place.

#### Presentation on the Annual Report

Ed Wengrowski presented the 9<sup>th</sup> Annual Report on the Alternate Design Wastewater Treatment Systems Pilot Program (*See attached PowerPoint slides*)

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

Mr. Fred Akers of the Great Egg Harbor Watershed Association advised the Commission on stream flow depletion. He presented the Commission with a publication that the Commission published in 1990 entitled, "An Assessment of the Hydrologic Impact Resulting from Development in Regional Growth Areas in Hamilton Township, Atlantic County." He also stated that it is pertinent for the Commission to determine the buildout in the Pinelands.

Mr. Rosenson informed the Commissioners that the alternate design septic program is a product of the Commission and PPA working together as partners in preserving the Pines.

Ms. Jaclyn Rhoads of the Pinelands Preservation Alliance welcomed Chair Lohbauer and thanked Commissioner Ashmun for her great work as Acting Chair. Ms. Rhoads said she hopes that the roadside vegetation site visit will be organized soon because numerous plants are flowering, and she does not want to miss the opportunity. Ms. Rhoads announced that PPA will be holding two public lectures in November, and that a reminder via mail will be forthcoming.

Chairman Lohbauer called for a motion to close public comment. Commissioner Ficcaglia moved to close public comment; Commissioner Jackson seconded, and all were in favor.

Closed Session (if Needed)

There was no closed session needed.

Adjournment

Commissioner McGlinchey questioned the status of grant money from DEP for the preparation of Water Quality Management Plans for Pinelands municipalities. David Reiner was supposed to look into this matter.

Ms. Wittenberg advised the Commission that she would follow up with Mr. Reiner and that a September 20, 2011 meeting with DEP concerning this matter has been scheduled.

Commissioner Ashmun moved to adjourn the meeting. Commissioner Jackson seconded. The Commission agreed to adjourn at 11:10 a.m.

Certified as true and correct:

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Jessica Noble, Executive Assistant

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