

Disclaimer

These minutes reflect the actions taken by the Commission during its November 14, 2008 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 November 24, 2008.

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

Minutes

**November 14, 2008**

Commissioners Present

Candace Ashmun, Guy Campbell, Paul E. Galletta, John A. Haas, Robert Jackson, Daniel M. Kennedy, Stephen Lee, III, Edward Lloyd, Robert McIntosh, Francis Witt, and Vice-Chairman Norman F. Tomasello. Also present were Executive Director John C. Stokes and Deputy Attorney General Valerie Haynes.

Commissioners Absent

William Brown and Leslie M. Ficcaglia

Vice-Chairman Tomasello called the meeting to order at 9:37 a.m.

Deputy Attorney General Haynes read the Open Public Meetings Act Statement.

Mr. Stokes called the roll.

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

Vice-Chairman Tomasello indicated that former Pinelands Chairperson Betty Wilson has resigned from the Commission on October 28. He said that Ms. Wilson was appointed to the Commission in November 2002, and she had served as the Chairperson since June 2005. Later in the Commission's agenda, it will take up a resolution expressing its appreciation to Ms. Wilson for her significant contributions and her service on the Commission.

Minutes

Vice-Chairperson Tomasello presented the October 10, 2008, Commission meeting minutes. Commissioner Witt moved the adoption of the minutes. Commissioner Ashmun seconded the motion.

The Commission adopted the minutes by a vote of 10 to 0. Commissioner Jackson was not present for the vote.

### Committee Chairs' and Executive Director's Reports

#### Science Committee Meeting

Commissioner McIntosh reported that the Science Committee met on October 10, 2008 and adopted the minutes from the May 9, 2008 Science Committee meeting. Mr. Stokes and Mr. Liggett reviewed the history of the Ambient Water Quality White Paper, described five categories of best-management practices, and summarized the status of initiatives that have been implemented. Mr. Bunnell gave a presentation that described the Forest Characterization Project and the associated work plan. The meeting was then opened for public comment.

#### CMP Policy and Implementation Committee Meeting

Commissioner Haas reported that the CMP Policy and Implementation Committee met on October 31, 2008 and adopted the minutes of the September 26, 2008 meeting with one minor change.

The Committee recommended that the Commission certify the stormwater plans and ordinances submitted by Buena Vista and Ocean Townships.

The Committee received a further presentation on the EIA project and review of criteria for potential changes to the Land Capability Map.

The Committee received presentations on draft rules pertaining to wetlands restoration and forestry. A more detailed discussion will follow at the Committee's December 1, 2008 meeting.

The Committee met in closed session to discuss a litigation matter.

#### Public and Governmental Programs Committee Meeting

Commissioner Lee reported that the Public and Governmental Programs Committee met on October 27, 2008.

The Committee discussed the proposed Garden State Parkway widening MOA. The Commission held a public hearing at the Berkeley Township Municipal Building on October 15, 2008 at 7 p.m. Commission staff reviewed the October 21, 2008 draft Executive Director's Report regarding the MOA with the Committee. Six people provided testimony at the public hearing. The Committee unanimously recommended the draft MOA to the full Commission for

review provided the Turnpike Authority was given the opportunity to comment on several additional “whereas” clauses proposed to be included in the draft MOA resolution. Commission staff questioned DVRPC regarding the comments that were received as a result of the public hearing and additional language was included in the Executive Director’s Report to clarify that the use of shoulders as travel lanes was not included in the project. The Committee motion included the secondary impacts agreement included with the MOA.

The Committee had a presentation on Fire Safety Action Plan. The Commission staff announced a fire safety initiative with the NJDEP, Stafford Township and Barnegat Township last spring. Since then, a working group has developed an action plan addressing some of the fire safety concerns which exist in the eastern portion of Ocean County. Commission staff provided the Committee with a presentation regarding the fire safety action plan. Commission staff explained the objectives of the project and the risk issues that were identified by the working group. Commission staff indicated that the working group identified several strategies to address the fire risk issues which included: creating and maintaining fire fuel breaks, education, establishing action and outreach committees. Both Stafford and Barnegat Townships passed resolutions endorsing the action plan. The next steps would be for priorities to be identified and to begin implementation of the action plan. Committee members suggested that insurance companies should also be party to the discussions.

The Committee continued discussion on draft County/Municipal Public Development Streamlining MOA. An October 21, 2008 Commission staff memorandum was included in the Committee packets which classified the types of development that could be subject to a streamlined permitting process into three categories: no issue, no substantial issue and more significant issue. The memorandum focused on classifying types of development activities and did not focus on the approval process for each type of development. Committee members expressed concern regarding certain development types included in the memorandum and how they were categorized. Commission staff indicated that it would review the Committee’s comments and prepare a more comprehensive document prior to returning to the Committee.

The Committee had a Legislative update. An October 10, 2008 Commission staff memorandum was sent to Senator Bob Smith’s Office regarding S1538 (installation of solar/wind generation facilities on preserved farms). The memo expressed concerns regarding the potential for inadvertent negative consequences to the Pinelands Area as a result of the proposed legislation. Commission staff was in continuing discussions with the Senator’s staff regarding the bill.

Additionally, amendments to the Federal Interstate Commerce Commission Termination Act had been adopted. The amendments included provisions that do not authorize the Surface Transportation Board to approve an exemption that would allow the establishment of a hazardous waste facility in a national reserve, like the Pinelands.

#### Audit Committee Meeting

Commissioner Witt reported that the Audit Committee met on October 21. The Committee adopted the January 31, 2008 minutes with one minor change. The Committee then went on to review the FY2007 Audit Report. Since there were still a few outstanding questions under

consideration, the Committee agreed to schedule another meeting to continue the discussion. A second meeting was scheduled for November 13 but it had to be cancelled due to the State Auditor Steve Eells' mother passing away. Staff is currently in the process of rescheduling this meeting. The Commission will receive a full report once this rescheduled meeting takes place.

#### Personnel and Budget Committee Meeting

Commissioner Witt reported that the Committee met on November 6, 2008 and adopted the minutes from the September 4, 2008 meeting.

The Commission discussed the Resolution to Revise the Pinelands Commission Personnel Policies. Ms. Connor discussed the process which was followed in preparing and reviewing the policy revisions. Michelle Russell explained the revisions to the Policies and explained the reasons as to why the changes were made. The Committee unanimously recommended Commission approval of the resolution.

The Committee reviewed the FY 2010 Budget Request to OMB - Donna Connor reviewed the recommended information that the Commission will submit to OMB. The Committee concurred.

The Commission reviewed the Check Register and Electronic Funds Transfer (EFT) Disbursements for September/October 2008. Ms. Connor provided information on the checks and electronic fund transfers.

The Committee reviewed Employee Actions. Ms. Connor reported that a candidate is being recommended for the Chief Scientist position and one employee is on an intermittent unpaid leave.

The Committee was provided an update on Fenwick Manor Renovations. Ms. Connor discussed the status of the project and stated that the bids came in lower than expected.

The Committee received an update on Application Fees. Ms. Connor noted that yearly fee totals are still lower than last year; however, an increase in fees was received during October.

Ms. Connor stated that all three CWA agreements were signed on October 28 and updated the Committee on the status of the implementation of the agreements.

The Committee held a closed session on the recommendation of the candidate for the Chief Scientist position. Ms. Connor updated the Committee on a CWA matter. Two other items were tabled until the next meeting.

#### Executive Director's Report

Mr. Stokes reported on the following items:

Later in the meeting, Mr. Liggett and planning staff will be updating the full Commission on the project involving potential changes to the Commission's Land Capability Map. Staff had extended invitations to all Pinelands county and municipal officials to attend one of two briefings. Approximately one hundred officials attend those briefings. Staff had asked the officials that if they had any additional information with regard to the map to share this with the Commission. Staff is making arrangements to meet with some of the towns and counties.

Staff hosted its second World Water Monitoring Day which was held in Batsto. This is a world-wide effort and there were 160 students from several different schools. Mr. Leakan and Mr. Mott organized this event and a number of the Commission staff participate.

The Barn renovation project has begun and the Science staff has been temporarily relocated to the RJS Center. The bids for the renovation came in below what had been expected.

Mr. Stokes reminded the Commission about the mandatory Ethics Training and indicated that he will need to certify that all members have completed either on-line or in-house training by December 12.

Mr. Stokes has reached out to Mr. Doria, Commissioner of the Department of Community Affairs, regarding the Council on Affordable Housing (COAH) rules. Staff has been trying to work with COAH's staff for a number of months to resolve some issues and to make the COAH rules work consistently with the Pinelands rules. Unfortunately it seems that at this stage the COAH staff is overwhelmed that they have not had an opportunity to dig in and work with staff on these rules. Mr. Doria serves as the chair of the COAH and Mr. Stokes has asked that the Council extend the deadline to respond, which is December 31. It is hopeful that Commission staff can work out an arrangement with Council because it is doubtful that municipalities can prepare affordable plans that meet both the COAH requirements and the Pinelands requirements by that time frame.

The Pinelands Preservation Alliance had its annual dinner last week and Dr. Zampella was one of three scientists that were honored that evening. This comes at an opportune time for Dr. Zampella since he will be retiring from the Commission at the end of this month.

Mr. Stokes announced that John Bunnell has been hired as Chief Scientist effective December 1 upon Dr. Zampella's retirement. He provided educational background on Mr. Bunnell and indicated that he has worked with the Commission for 19 years. He asked Mr. Bunnell to briefly comment on where the Science office is on some of the current projects and where it will be going with some of these projects.

Mr. Bunnell stated that there are a number of projects coming up this year as well as the on-going environmental monitoring agreement which was started in early 1990. The EPA Buffer grant will begin in December along with the Forest Characterization Project as well as wrapping up the Kirkwood/Cohansey project. He said that the Science Office has really good staff and he feels confident in fulfilling all the projects which will carry them over the next five years.

Commissioner Lee mentioned the nice article on John Bunnell which was recently in the Burlington County Times.

Mr. Stokes continued with his report:

There will be some late stage changes the staff will be recommending to the Commission relative to the secondary impacts agreements that are part of the Garden State Parkway project. These will need to be discussed with the Commission in closed session. There are also two other matters that will also need to be discussed in closed session today relating to the Pappas Appellate Division Decision and the other is a matter that is before the Administrative Law. He said that Ms. Roth will present an overview of the Garden State Parkway proposal but the Commission will need to hold the resolution until after the Commission comes back from closed session.

Mr. Horner reported on the following items:

On October 15 the Commission, in cooperation with the New Jersey Builders Association, sponsored a Stormwater Seminar at the Commission office to provide an overview of the new Stormwater Management regulations that staff is administering. He said that the seminar was well attended.

On October 30, staff had its first meeting with Hamilton Township representatives concerning stormwater management basins in the Township that are failing. A course of action relative to this matter was discussed to try and address those issues, including prioritizing the basins that are failing. The Township and Commission staff will be working on this matter over the upcoming months.

Staff has been meeting with representatives of JCP&L who need to do vegetation management in its right-of-ways. Staff has been attempting to accommodate their needs for maintenance and maintaining its electrical supply systems. Staff is moving forward to hopefully conclude the vegetation management plan early this winter.

Mr. Liggett reported on the following items:

Staff met with USGS staff about Hammonton Town and its sewer treatment plant and the recharge facility. Staff will be arranging a meeting with the Town in late January to review options and the next steps on the project to move ahead with this issue.

This week staff met with Estell Manor who finished its characterization of its landfill and now a determination will have to be made as to what they are going to do with it. They are discussing with staff that the situation doesn't call for an impervious cap. Staff is currently looking at this matter and looking at alternatives.

Cape May Landfill is moving ahead with its landfill expansion and staff is hoping to have this matter come before the Commission sometime in the near future.

Staff has been working with Winslow Township on the closure of the Sickerville recharge facility and the possibility of shipping the wastewater to Camden County. Staff believes it has a possible solution to this matter and will be bringing this matter before the Public and Governmental Programs Committee.

Staff now has access to DEP aerals from 2007 for the Pinelands Area. These are very useful for Project Review and in the ecological assessment.

Commissioner Lee referred to staff's meeting with USGS and the letter that was drafted to them noted in the Executive Director's report and asked if the Town is aware what the findings are going to be and what the options might be.

Mr. Liggett replied that staff had a briefing with the Town a few months ago and at that meeting, for example, Hammonton mentioned an option that they were looking at relative to drip irrigation as a possible tool. He said that the town is aware of the findings and they are eager to move ahead.

Commissioner Lee stated that USGS was constrained by its ability to design a solution and as this goes along, an understanding of what is wrong and how to solve it is going to take some pushing. He said that everyone has to pay attention to this issue.

Mr. Liggett concurred.

#### Public Comment on Agenda Items

Mr. Jeff Tittel from the Sierra Club referred to Betty Wilson and stated that he has known her for a long time and she will be missed. He commented that the Sierra Club believes that the widening of the Garden State Parkway from 81 to 30 will have very serious consequences on the Pinelands and water quality. He said that this project will promote growth, especially around exits 58 and 59. He further commented on the significant secondary impacts on habitats.

Mr. Harry Monessen, Pemberton Township, commented on Betty Wilson's tenure with the Commission and said that he hopes that she will privately continue to do her good work on behalf of the New Jersey Pinelands. He commented on the Commission's projected changes in boundaries and policies and that he hoped that it will apply the same rules for widening the Garden State Parkway as to the needs of family farmers and small businesses. He commented on all the businesses that have closed and all the abandoned farms due to the Commission's policies. He said that there is strict compliance and no ratables in Pemberton Township.

Mr. Horner stated for the Commission's benefit that a gentleman, Mr. Thomas, is present today to comment on the waiver of strict compliance application that is before the Commission today. He said that he had indicated to Mr. Thomas that based on the Commission's rules that he will not have the opportunity to submit written comments on this application because the record has already been established for the waiver. He indicated that he had asked staff to review the entire application file with Mr. Thomas at the beginning of today's meeting. He further indicated that

the comments that are being offered are similar to the comments that are noted in the waiver report that were offered by other residents.

Mr. Stokes stated that staff conducted a public hearing on the Garden State Parkway matter and the testimony as well as written comments which were presented is included in the hearing report which was in the Commission's packet. He said that although the record is closed anyone who previously spoke can comment on this matter today as long as they are within the record that is before the Commission today.

Kyle Wiswall, Tri-State Transportation Campaign, stated that the Garden State Parkway project is unnecessary and that it really doesn't state the need that the project is addressing. He said that the project will adversely affect the Pinelands reserve by facilitating sprawl and increase development pressures. He questioned the legality of the MOA and agreements and whether the increased capacity of the enlarged Parkway is appropriate for the continued preservation of sustainability, the integrity and quality of life in the Pinelands.

### Development Review Matters

#### Review of Public Development Projects

Mr. Stokes stated that Application Numbers 1982-3575.003, Lakehurst Borough, 1984-0655.016, South Jersey Transportation Authority, and 2002-0586.001, Atlantic County Department of Regional Planning and Development, are applications for public development recommended for approval with conditions.

Commissioner Lee moved the adoption of the Resolution Approving with Conditions Applications for Public Development (Application Numbers 1982-3575.003, 1984-0655.016, 2002-0586.001). (See Resolution #PC4-08-95 attached). Commissioner Galletta seconded the motion.

Commissioner Ashmun, referring to the Lakehurst Borough and the South Jersey Transportation Authority applications, asked if both of these applications have impacts on wetlands and wetland buffers.

Mr. Horner stated that staff concluded that the Lakehurst Borough project would not be an impact to wetlands based upon the Commission's regulations. He said in terms of the South Jersey Transportation Authority application, if an applicant demonstrates that the need for the project for a road overrides the importance of protecting a wetlands, it is a permitted use and it can occur. He said that the Commission's rules do not provide for mitigation and the impact to the wetlands has to be reduced as much as possible.

Commissioner Ashmun said that when she read the reports it struck her that because there is already an impact to wetlands there can be more impact. She said that if she had had a map she probably would have known what this was all about.

Mr. Stokes indicated that in the future, staff can bring the maps and descriptions on these types of applications.

The Commission adopted the resolution by a vote of 11 to 0.

Mr. Stokes stated that Application Number 1987-1159.044, Ocean County, is an application for public development recommended for approval with conditions.

Commissioner Haas left the meeting for the following resolution.

Commissioner Ashmun moved the adoption of the Resolution Approving with Conditions an Application for Public Development (Application Number 1987-1159.044). (See Resolution #PC4-08-96 attached). Commissioner Campbell seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0. Commissioner Haas was not present for the vote.

Commissioner Haas returned to the meeting.

Mr. Stokes stated that Application Number 1988-0735.001, Mark Schneider, is an application for a waiver of strict compliance recommended for approval with conditions.

Commissioner Witt moved the adoption of the Resolution Approving with Conditions a Request for a Waiver of Strict Compliance (Application Number 1988-0735.001). (See Resolution #PC4-08-97 attached). Commissioner Galletta seconded the motion.

The Commission adopted the resolution by a vote of 11 to 0.

#### Other Development Review Matters

Mr. Stokes stated there was one PDC Letter of Interpretation issued this month. The PDC Letter of Interpretation allocated 0.25 PDCs to a total of 10.74 acres. There were also three recreation permits.

#### Resolutions Relating to Municipal Ordinances

Mr. Stokes presented the Resolution Issuing an Order to Certify the August 2008 Stormwater Management Plan and Ordinance 10-2006, Amending the Code of Buena Vista Township. (See Resolution #PC4-08-98 attached).

Commissioner Galletta moved the adoption of the resolution. Commissioner Ashmun seconded the motion. The Commission adopted the resolution by a vote of 10 to 0. Commissioner Lloyd was not present for the vote.

Mr. Stokes presented the Resolution Issuing an Order to Certify the August 2008 Stormwater Management Plan and Ordinance 2008-20, Amending the Code of Ocean Township. (See Resolution #PC4-08-99 attached).

Commissioner Lee moved the adoption of the resolution. Commissioner Campbell seconded the motion. The Commission adopted the resolution by a vote of 10 to 0. Commissioner Lloyd was not present for the vote.

#### Other Resolution of the Commission

Mr. Stokes presented the Resolution To Revise the Pinelands Commission Personnel Policies. (See Resolution #PC4-08-100 attached).

Mr. Stokes stated that the changes in the personnel policies reflect three goals: to incorporate the provisions of the Commission's collective bargaining agreements into the policies; to do a top to bottom review of the personnel policies with the Commission's labor counsel; and for the business office to conduct an administrative review. Ms. Michele Russell, from the Business Office, highlighted the significant changes in the personnel policies for the Commission.

Commissioner Campbell commended staff for doing an excellent job on the Personnel Policies.

Commissioner Campbell moved the adoption of the resolution. Commissioner Ashmun seconded the motion.

Commissioner Lee concurred with Commissioner Campbell and stated that this is an excellent job in cleaning up the language that both employees and the Commission can understand.

The Commission adopted the resolution by a vote of 11 to 0.

Mr. Stokes presented the Resolution Expressing the Commission's Appreciation to Betty Wilson for Her Service as a Member between November 2002 and October 2008 and as Chairperson from June 9, 2005 until October 28, 2008. (See Resolution #PC4-08-101 attached). The Commission unanimously seconded the motion. The Commission adopted the resolution by a vote of 11 to 0.

#### Ordinances Not Requiring Commission Action

Vice-Chairman Tomasello stated that Egg Harbor Township Ordinance 26-2008, Lacey Township Ordinance 2008-30, and Winslow Township Ordinances 0-30-08, 0-31-08, and 0-32-08, are ordinance amendments that do not raise a substantial issue with regard to the provisions of the Comprehensive Management Plan. The Commission took no action, allowing the ordinances amendments to take effect.

Briefing on the Garden State Parkway Project

Ms. Roth said that Commission staff has been working with the New Jersey Turnpike Authority staff for some time on the Garden State Parkway widening regulatory process. She said that the project is designed to result in an additional travel lane and wider shoulders in both the north bound and south bound directions. It includes the construction of parallel spans and rehabilitation of existing bridges over Mullica and Bass River and the widening of an existing bridge over Patcong Creek. The project will take place mostly within the median of the Garden State Parkway throughout the 50 mile area of the project. The totality of the project with the exception of one mile is located within the Pinelands area. This agreement derives from the Pinelands Comprehensive Management Plan's MOA provision with regard to a deviation MOA. The Commission is permitted to enter into and consider an intergovernmental memorandum of agreement that permits an agency to carry out development that is not completely consistent with strict application of the requirements of the CMP, if it is demonstrated, and the Commission finds, that the deviation from the standards from the plan is accompanied by measures that will, at a minimum, afford an equivalent level of protection for the resources of the Pinelands that would be provided through strict application of the plan. She explained the reason for the MOA stating that the proposed widening project is not fully consistent with the threatened and endangered plant and wildlife management standards. The widening is consistent with all other standards of the CMP. She said that the requirement of secondary impacts or the Parkway overlay district requirements are being addressed through execution of a separate agreement which will be discussed today in closed session.

Mr. Stokes noted that this separate agreement has to be discussed in closed session because it deals with acquisition of properties. He said for the record that the Turnpike Authority has agreed to take the actions necessary to avoid secondary impacts at the two interchanges which the Commission's consultant felt might be negatively affected.

Ms. Roth said lastly with regard to historic, archaeological and cultural resources of the Pinelands, because of the Section 106 program and Federal monies that are being utilized for the widening project, the Turnpike Authority was required to enter into an agreement which is called a Programic Agreement with the Army Corp of Engineers, the U.S. Coastguard, the New Jersey State Historic Preservation Office to address historic and cultural resources. The obligations under that agreement as part of the MOA are going to be extended throughout the entire Pinelands, not just the areas of interest or jurisdiction of the Corp.

Ms. Roth discussed the area where deviation is required. She said in evaluating the threatened and endangered species impacts associated with the widening project, the Turnpike Authority took a very conservative approach. It did a landscape based analysis and then combined that with field verification to determine all potential habitats that may be impacted by this project. The total habitat impacts for the project are 89.7 acres and most of this impact is occurring within the median of the roadway with only a portion outside of that area. The total offset that is being provided is 142.76 acres which is at a 1.1 replacement ratio for impacts in the median and a 3.1 ratio for impacts outside of the median. She explained that the reason for the ratio is that habitat within the median does not constitute critical habitat whereas there is potential outside the median for critical habitat to occur thus the increase in the requirement for the outside offset.

Commissioner Lloyd asked if outside of the median are mostly wetland detention basins.

Ms. Roth replied no, those impacts are in the median and she believes it has more to do with the shoulder widening.

Ms. Roth explained the offset indicating that the Turnpike Authority agreed to purchase a deed to restrict against the future development of 142.76 acres of threatened and endangered species habitat. She said that 44 acres of that is provided at a site called Turtle Creek which is in Washington Township. This site provides habitat for many of the species where habitat is being impacted. The site does not provide habitat for upland species. The remaining 98.76 acres will be addressed through acquisition by the Turnpike Authority of threatened and endangered upland habitat in the Pinelands area in the vicinity of the project. A minimum of that will be northern pine snake habitat of 80.77 acres and 4.93 acres of redheaded woodpecker habitat.

Commissioner Ashmun asked what does future mean.

Ms. Roth replied that the Authority has, through its mitigation consultant, already acquired the Turtle Creek site and it will be deed restricting portions of this site which is much larger than 44 acres. She pointed out that there will be no double dipping or overlapping in terms of utilization of this site. She said that future acquisition means that sometime after the signing of the MOA, the Turnpike Authority will go ahead and acquire the requisite uplands and that there is no time frame for this.

Mr. Roth stated that staff provided the Turnpike Authority with a map showing lands in the vicinity of the Parkway that they should consider for offset potential. She said that the Authority will probably come back to the Commission when it is looking at lands and ask whether or not those are appropriate habitat lands for the offset.

Commissioner Jackson said that if this is not in writing he wouldn't be too sure.

Commissioner Ashmun said that there are time frames on other kinds of mitigation and offset and she does not understand why there isn't something here that says when this future acquisition has to take place.

Ms. Roth said that on page 10 of the agreement it notes that evidence of the purchase of the deed restriction should be provided to the executive director within three years of the effected date of the MOA.

Commissioner Haas asked if it is sure that if the Turnpike Authority doesn't acquire the property within 5 years, then the Commission has 5 years to acquire the property.

Ms. Roth replied that pertains to secondary impacts and is in the agreements that the Commission will be discussing in closed session.

Ms. Roth said that the last point with regard to the MOA is that the Commission also has authority to enter into an intergovernmental MOA to permit an agency to carry out development activities that are consistent with the CMP but to do so without their need to secure individual approvals. Although the MOA would authorize the totality of the project, the project will be constructed in a phased approach over time. The Authority is obligated to provide the Commission with the information in terms of the changes to the project prior to commencing construction of any segment so staff can assess whether or not those changes are material and if they are material, whether they require a new application to the Commission.

Commissioner Ashmun asked if staff feels that there has been adequate review for this project.

Ms. Roth replied that in her opinion she feels the Commission's review has been more than adequate and that there are requirements within the MOA that prior to proceeding with construction of any segment the Authority will need to identify with staff what segment they are working on and when any potential changes may be required. This will be an opportunity for staff to look at those to see if they are material.

Commissioner Ashmun said that her biggest concern is how the mitigation timing and the segments go together and whether there is a chance that any of this might fall between the cracks.

Mr. Stokes stated that he feels that there are sufficient safeguards in the agreement. There are specific timelines for the Authority to act and then for the Commission to step in if need be.

Commissioner Ashmun said that she wants the record to show that this is a big concern for her and that in the future if it the Commission needs to bring it up it won't come as a shock.

Mr. Stokes stated that Commissioner Lloyd expressed a similar sentiment and he asked staff to prepare an addition to the resolution that the Commission has which reflects that it is the Executive Director's responsibility to monitor the project and it does make this a little clearer.

Commissioner Lloyd stated that one of his concerns with this issue is the whole timing with the project. He said that staff has an alternate resolution which has not been distributed to the Commission as yet.

Commissioner Lee asked whether there should be a motion on the resolution prior to retiring into closed session.

Mr. Stokes suggested that it should wait until after the closed session discussion.

Commissioner Lee questioned if staff has a time schedule from the Turnpike Authority with respect to the various phases of the project.

Ms. Roth said that she does not have an express time schedule with regard to the phasing. She said that she has an idea of what the NJTA's construction window is and when they plan to start

the bridge segment and when they will be finished with Tier 1 which is the result of the Toll proposal which consist of exits 80 to 63 plus the bridge widenings.

Commissioner McIntosh asked the status of the Federal EIS.

Ms. Roth replied that all permits have been issued except for the Commission's approval.

Commissioner McIntosh referred to 106 and asked if the stipulations of the programmatic agreement would apply Pinelands wide.

Ms. Roth replied that that it would apply throughout the Pinelands portion of the project. As part of the 106 process the Army Corp made a determination that only certain portions of the project require review because each of the segments had independent utility, the ACOE review did not encompass all 50 miles of the project area. She said that through the MOA, the stipulations contained within the programmatic agreement would apply throughout the 50 miles of the Pinelands Area.

Commissioner Lloyd asked if each of these segments has independent utility, why shouldn't the Commission approve Tier 1 and revisit the rest when the Authority is ready to go forward.

Ms. Roth replied that although each of the segments is designed to address a specific need, the Authority has always presented the project in totality. Additionally, the Commission has always required entities to present the full scope of their plan. In fact, the CMP requires state agencies to submit comprehensive plans.

Commissioner Witt questioned why the Commission is concerned about the timetable and stated that the Commission's concern should be about the environment. He said that he gets frustrated at times when government gets in the way of progress. He said that from what he hears today a lot of permits have been issued from different governmental agencies and federal agencies and he doesn't believe the Commission should get in the way and argue about a timeframe.

Commissioner Lee acknowledged Commissioner Witt's point. He knows, as a member of the Public and Governmental Programs Committee, that it has been dealing with the matter for a long time. The Authority originally came to the Commission with a much more aggressive timetable that would have construction occurring about a year ago but the Commission insisted in specific safeguards, spent a significant amount of time reevaluating and retesting the stormwater site work and the design for stormwater. He said that he feels the Commission has accomplished a great deal. He said that the Commission has always asked for the plan for an entire project and it has always tried to take the very long view. He said that it is essential that the Commission does this which is good planning. He said that the Commission is well protected and has the ability to step in and review any new changes. He said that this project is good for the State and good for the Pinelands. He said that when the Parkway was built it gave citizens and visitors access to a part of the state where there was no access. He said that a lot of this project is restoring access and providing safer travel during periods of high traffic. He concurred with Commissioner Witt and said that the Commission should find a way to move this project forward.

Commissioner Jackson stated that progress can bring unwanted consequences especially to an area like the Pinelands. He said that in providing that great access the project has also complicated the Commission's particular job. He said that the Commission's job is trying to protect what the Pinelands is and not let progress overrun it.

Commissioner Lee said that this is exactly what has been done through the MOA process and it has provided a thorough analysis of secondary impacts in the Garden State Parkway that it has not done with any other project in South Jersey. The Commission has attempted to provide that level of insurance.

Commissioner Jackson asked if the Commission is getting the mitigation upfront.

Commissioner Lee replied that is correct.

Ms. Roth said that the Authority is committed to address secondary impacts and it has to assure the Commission that there won't be negative growth induced impacts as a result of its widening project.

Commissioner Jackson stated that mitigation is one issue that has been grossly abused across the board.

Ms. Roth said that mitigation is a poor choice of words and stated that the correct phrase is obviate.

Commissioner Haas commented on the need for the project, noting that during May through September the traffic on the Parkway gets backed up for four to ten miles every evening. He said that the speed limit on parts of the Parkway have been reduced because of the high instances of traffic accidents and road rage. He said that the proposal before the Commission today will resolve a major transportation problem.

Commissioner Lloyd said following up on Commissioners Haas and Witt's comments, with respect to the need and congestion of the Parkway, he feels it is beyond the scope of this Commission's responsibilities and he just wants to make the record clear that expanding a highway doesn't necessarily or always or often resolve a congestion problem. He said with regards to Commissioner Witt's point, the Commission has not delayed this project and has worked with the Turnpike and has analyzed the secondary impacts and are not holding them up. With respect to the environmental impacts, Commissioner Witt is exactly right and this is something that the Commission should be concerned about. He said that timing has an impact on that. He said that he is concerned that if the Commission approves the entire project and 10 years go by, those impacts could change and the circumstances could change. He said that he believes in the agreement the Commission has the ability to address those issues.

Commissioner Lee made a motion to go into closed session for purposes of discussing the remaining agreements to the New Jersey Turnpike Authority application. Commissioner Jackson seconded the motion.

#### Closed Session Resolution

DAG Haynes read a resolution to retire into closed session to discuss the Garden State Parkway project and to discuss acquisition.

Commissioner Lee moved the adoption of the resolution. Commissioner Jackson seconded the motion. The Commission agreed to retire to closed session by a vote of 9 to 0. Commissioner Ashmun and Galletta were not present for the vote.

#### Return to Open Session

Vice-Chairman Tomasello opened the public portion of the meeting.

DAG Haynes stated that the Commission in closed session discussed the land acquisition aspects of the New Jersey Turnpike Authority agreement.

Commissioner Lee moved the Revised Resolution Authorizing the Executive Director to Enter into a Memorandum of Agreement with the New Jersey Turnpike Authority Regarding the Proposed Widening of the Garden State Parkway Between Interchange 30 to Interchange 80. (See Resolution #PC4-08-102 attached). Commissioner Haas seconded the motion.

Ms. Roth distributed copies of the revised resolution to members of the public. She then highlighted the changes for the public. She said the changes appear in the third whereas clause from the bottom of page 1 and on page 3 in the Therefore be it further resolved clause.

Mr. Stokes stated for the record that in main agreement, the Authority agrees to reimburse the Commission for its expenses and there is a blank amount. The Authority has asked staff to insert the amount after the agreement is approved.

The Commission adopted the revised resolution by a vote of 10 to 0. Commissioner Kennedy was not present for the vote.

#### Public Comment on any Matter Relevant to the Commission's Statutory Responsibilities Other Agenda Items

Mr. Russ Julig stated that they are looking forward to working with the Commission on a lot of different vegetation issues. He said that there are four things to bring to the Commission's attention about the road shoulders vegetation issues. He said road shoulders include very significant land area of thousands of acres, these are areas with legal implications, there are many threatened and endangered species and plants that exist on these road shoulders and it is an

opportunity for people to see some of these species, and there are scientific reasons these should be preserved.

Mr. Jeff Tittel from the Sierra Club commented on the new COAH rules and said that these rules will have an impact on the Pinelands and the Commission needs to try to work with COAH to develop a MOA similar to what is happening in the Highlands, which is that all the lands are considered scarce resource which means that the towns have to meet its obligation before it builds projects that are market rate.

Mr. Harry Monesson, Pemberton Township, commented on earlier comments on roadside flowers and said that during the depression people ate the vegetation. He said that the Commission has made it so that individuals can't utilize their land efficiently. He further commented on renewable energy resources and production that will contribute to low carbon emissions.

The Commission decided that the presentation on the CMP map changes will be postponed until the December meeting.

Mr. Stokes stated that staff will be briefing the CMP Policy and Implementation Committee at its December 1 meeting on the criteria staff has been using and that it has briefed the Committee previously relative to the CMP map changes. Staff will brief the full Commission at its December meeting.

Mr. Liggett distributed a draft map to the Commission and briefly described how to use the map.

#### Closed Session Resolution

DAG Haynes read a resolution to retire again into closed session to discuss 2 litigation matters, the Pappas Decision and D&D Residential.

Commissioner Haas moved to retire into closed session. Commissioner Galletta seconded the motion. The Commission agreed to retire into closed session by a vote of 11 to 0.

#### Return to Open Session

Vice-Chairman Tomasello reopened the public portion of the meeting.

DAG Haynes stated that the Commission discussed in closed session the Pappas decision and matters relating to D&D Residential.

#### Adjournment

Commissioner Campbell moved to adjourn the meeting. Commissioner Jackson seconded the motion. The Commission agreed to adjourn the meeting at 1:25 p.m.

Certified as true and correct:

\_\_\_\_\_  
Nadine B. Young,  
Executive Assistant to the Commission

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