

Disclaimer

These minutes reflect the actions taken by the Commission during its September 9, 2022 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 19, 2022.

PINELANDS COMMISSION MEETING

MINUTES  
September 9, 2022

*All participants were either in-person or present via Zoom conference, and the meeting was livestreamed through YouTube: <https://www.youtube.com/watch?v=bM2ZsQlf3ng>*

Commissioners Participating in the Meeting

Alan W. Avery Jr., Dan Christy, John Holroyd, Jerome H. Irick, Jane Jannarone, Ed Lloyd, Mark Lohbauer, William Pikolycky, Gary Quinn, Douglas Wallner and Chair Laura E. Matos. Also participating were Acting Executive Director Susan R. Grogan, Deputy Attorney General (DAG) Nicolas Seminoff and Governor's Authorities Unit representative Janice Venables.

Commissioners Absent

Theresa Lettman, Jonathan Meade & Davon McCurry.

Call to Order

Chair Matos called the meeting to order at 9:32 a.m.

DAG Seminoff read the Open Public Meetings Act Statement (OPMA).

DAG Seminoff administered the Oath of Office to Douglas Wallner, who was appointed by Burlington County to serve on the Commission.

Acting Executive Director (ED) Grogan called the roll and announced the presence of a quorum. Eleven Commissioners participated in the meeting.

The Commission pledged allegiance to the Flag.

### Minutes

Chair Matos presented the minutes from the Commission's August 12, 2022 meeting. Commissioner Irick moved the adoption of the minutes. Commissioner Pikolycky seconded the motion.

The minutes from the August 12, 2022 Commission meeting were adopted by a vote of 9 to 0. Commissioners Quinn and Christy both abstained from the vote.

### Committee Reports

Chair Matos provided a summary of the August 26, 2022 Policy & Implementation Committee meeting:

The Committee adopted the minutes of the July 29, 2022, meeting.

Staff provided an update on the most recent round of Pinelands Conservation Fund (PCF) land acquisition. Only one project was submitted and the staff is not recommending it for funding. The staff hopes to hold a rally in late winter or early spring 2023 to coordinate with preservation partners and draw more attention to the PCF program.

The Committee received a briefing on Atlantic County's extension request related to Garden State Parkway Exit 44 in Galloway Township. The exit was upgraded from a partial interchange to a full interchange in 2017. The Commission negotiated an agreement whereby Atlantic County must preserve lands near the interchange to offset any increased development pressures in the area. The County has acquired all but 14 of the 356 required acres. The Committee voted to move the extension request to the full Commission.

The Committee continued its discussion of forestry policy proposals to be submitted to Senator Smith's Forestry Stewardship Task Force. Staff drafted eleven policy proposals concerning invasive species management, herbicide use, clear cutting, forest fire fuel breaks, and other forestry related issues. Based on the Committee's discussion, minor revisions and clarifications will be made and presented to the full Commission for discussion in September.

Acting ED Grogan provided the Committee with additional information on Pemberton Township's Lakehurst Road Redevelopment Plan and the history of the Township's Regional Growth Area zoning plan. She described the zoning capacity and PDC opportunities provided by the 1992 zoning plan and noted the additional redevelopment plans and PDC requirements adopted by the Township since that time. She explained how the Lakehurst Road Plan mandates the use of PDCs at a rate than can reasonably be expected to be achieved. She also explained the environmental considerations of the redevelopment plan, including the conservation of more than 300 acres in the Forest Area.

Commissioner Avery provided a summary of the August 23, 2022 Personnel and Budget Committee meeting:

The Committee approved the minutes from its June 14, 2022 meeting.

Staff provided a financial update to the Committee. It was noted that that application fees have exceeded the anticipated amount thus far.

Staff presented the Fiscal Year 2023 draft budgets and a list of initiatives. The Committee discussed the following matters: the possibility of purchasing electric vehicles for field use, the Commission's record retention policy, personnel and staffing matters and the status of contract negotiations. The Committee briefly discussed licensing the Jersey Devil located in the exhibit center to create merchandise to sell.

#### Acting Executive Director's Report

Acting ED Grogan provided information on the following matters:

- The Pinelands Development Credit (PDC) Bank Board held a virtual meeting on August 24<sup>th</sup>. The Board had not met in five years but needed to convene a meeting to re-adopt the PDC Bank's regulations, which expire every seven years. The adoption notice was then filed with the Office of Administrative Law (OAL). The Bank also issued its Fiscal Year 2022 Annual Report. Highlights from the report will be shared during a presentation at the October Commission meeting. The presentation will include new data on PDC supply and demand.
- The Kirkwood-Cohansey rule proposal was published in the New Jersey Register on September 6, 2022. The register notice was posted on the Commission's website, and distributed to the Pinelands Municipal Council, Pinelands municipalities and counties and interested parties. The 60-day public comment period has begun and will close on November 5, 2022. A public hearing has been scheduled for October 13, 2022.
- The State Auditor has contacted staff about beginning the Fiscal Year 2021 Audit.
- The New Jersey Department of Environmental Protection (NJDEP) has announced a virtual public stakeholder process that will begin on September 27<sup>th</sup> to develop an access and use plan for Wharton State Forest. Commission staff will attend the meeting in September.
- NJDEP's Office of Community Investment and Economic Revitalization (CIER) created an Outdoor Recreation Advisory Committee. Staff's request to participate on the Committee was accepted and Gina Berg will be representing the Commission as the Committee develops New Jersey's outdoor recreation plan. Staff will be conducting an "economy of open space" study as part of new project for the Long-Term Economic Monitoring program.

- The New Jersey Historic Trust will announce its grant funding recipients on September 28th. The Commission prepared a grant application for funding to prepare a preservation plan for Fenwick Manor.
- Kelly Smalling from the U.S. Geological Survey will present the findings of the endocrine disruption study at the November Commission meeting. The study has been published and will be shared with Commissioners.

Chuck Horner, Director of Regulatory Programs, provided information on the following regulatory matters:

- Staff recently met with a cranberry farmer in Southampton Township to discuss subdividing off two existing dwellings from the 230-acre parcel. The purpose of the subdivision is to facilitate acquisition of the balance of the property by the New Jersey Conservation Foundation, with participation by the Pinelands Preservation Alliance.
- A large residential development project in Jackson Township was approved by consent order, granting final approval to the entire project. Typically, large residential developments are approved in phases. The project requires the purchase and redemption of 27.5 PDCs. Staff is trying to find an approach for the redemption of the PDCs that will be consistent with the regulations and not financially burden the developer all at once.
- The Forestry Stewardship Task force has two sub-Committee meetings scheduled this month. Today is the extended deadline to submit policy proposals.
- Staff participated in two different municipal court matters in Hamilton Township, both of which involved clearing violations.

Stacey Roth, Chief of Legal & Legislative Affairs, provided an update on the following matters:

- Staff is scheduled to meet with representatives of Stockton University later this month to continue discussions regarding the deed of conservation restriction (DCR) and changes to the map.
- Atlantic County recently contacted the Commission about amending its 1998 Memorandum of Agreement (MOA) to allow for a new floating dock system to be installed. The project lost momentum during the pandemic. The DCR filed for the original MOA inadvertently deed restricted the entire lake, making it not possible to move or install new docks.

Paul Leakan, Communications Officer, provided an update on the following:

- The Commission will host a moth night on October 5, 2022, starting at 7 p.m.
- Plant identification markers have been installed in the Commission's rain garden, which is thriving.

#### Public Development Projects and Other Permit Matters

Chair Matos presented a resolution related to three applications for the Buena Regional Board of Education. She said the first application is for an addition to the Buena Regional High School, the second application is for a parking lot and an access drive at Collings Lakes Elementary School and the third application is for a building addition and parking area expansion at the Milanese Elementary School.

Commissioner Irick made a motion Approving With Conditions Applications for Public Development (Application Numbers 1984-1157.007, 1990-1104.003 & 1991-1291.002) (See Resolution # PC4-22-31). Commissioner Lohbauer seconded the motion.

The resolution was adopted by a vote of 11 to 0.

Chair Matos presented a resolution for improvements to an entrance ramp of a service area on the Garden State Parkway.

Commissioner Pikolycky made a motion Approving With Conditions an Application for Public Development (Application Number 1997-0257.020) (See Resolution # PC4-22-32). Commissioner Avery seconded the motion.

Director Horner said a minor widening is proposed for traffic safety improvements to the service area.

The resolution was adopted by a vote of 11 to 0.

Chair Matos presented a resolution recommending approval of three Pemberton Township Applications. They included the construction of a playground and three docks at a park, installation of potable water main in the Pemberton-Browns Mills Road right-of-way and the construction of a cell tower at the Presidential Lakes Fire and Rescue Building.

Commissioner Lohbauer made a motion Approving With Conditions Applications for Public Development (Application Numbers 1984-0509.003, 1989-0349.022 & 2006-0440.001) (See Resolution # PC4-22-33). Commissioner Holroyd seconded the motion.

Director Horner noted that a violation will be resolved as part of the park application, He said the town placed riprap along the shoreline in an attempt to discourage swimming and it is not permitted by the Pinelands Comprehensive Management Plan (CMP).

Director Horner said that the cell tower application is being sited at an approved location for a wireless communication facility. The cell tower will serve as a principal use and provide cellular coverage throughout the area.

The resolution was adopted by a vote of 11 to 0.

Chair Matos presented a resolution recommending approval of a Waiver of Strict Compliance for a single-family dwelling.

Commissioner Pikolycky made a motion Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 2020-0195.001) (See Resolution # PC4-22-34). Commissioner Christy seconded the motion.

Director Horner noted that the proposed single-family dwelling will be located in the Ocean Acres section of Stafford Township. He said the development cannot meet the wetlands buffer standards of the CMP and requires a waiver. The proposed single-family dwelling will maintain a 55-foot buffer to wetlands. One public comment was received, and it included four photographs of wildlife species, one of which was a frog. He said in the Pinelands Area, the Southern gray treefrog is considered endangered. Based on the submitted photograph staff could not determine if the frog was a Southern grey treefrog or a Northern grey treefrog. He said the only way to distinguish between the two frog species is by their call and certain chromosomal factors. He said staff feels comfortable that the proposed development will not result in irreversible, adverse impacts critical to the survival of the species, based on the surrounding development.

The resolution was adopted by a vote of 11 to 0.

### Planning Matters

Chair Matos presented a resolution recommending approval of the Lakehurst Road Redevelopment Plan in Pemberton Township.

Commissioner Avery made a motion to Adopt an Order to Certify Pemberton Township Ordinance 11-2022, Adopting the Lakehurst Road Redevelopment Plan (See Resolution # PC4-22-35). Commissioner Pikolycky seconded the motion.

Acting ED Grogan provided a brief overview of the redevelopment plan. She noted that the plan was discussed at length during two P&I Committee meetings and at the August Commission meeting. She said the redevelopment plan covers just over 700 acres, half of which is in the Regional Growth Area (RGA) and the other half is in the Forest Area (FA). The plan will facilitate the development of 575 age-restricted homes that will all be located in the RGA. Incorporated into the plan is an affordable housing obligation and a mandatory PDC requirement for 25% of the market rate units. She said PDCs were optional under the old zoning and included a higher permitted density (1,200 units). She said the FA will remain open space. She said staff is recommending approval of the redevelopment plan.

Commissioner Lohbauer said he raised a number of questions, all of which were answered by staff. He said he supports the reduced density. He said because of the Commission's rules, a secondary access road will need to be constructed and trees will need to be cut. He said the Pinelands Climate Committee is working towards no net tree loss rules to be incorporated into the CMP and requested that the Township take that into consideration.

Acting ED Grogan clarified that the CMP does not require a secondary access road and should the Township include it as part of a future development application, the staff would review it for compliance with the environmental standards.

Commissioner Lloyd said he is pleased that passive solar heat gain is being required and hopes there is way that the CMP can be amended to incorporate it.

The resolution was adopted by a vote of 11 to 0

Public Comment on Public Development Applications and Items Where the Record is Open

Chair Matos read the list of Public Development applications.

Director Horner said that the NJDEP has submitted an amended application for a forest fire fuel break and forestry activities. He said approximately six months ago the Commission voted on the resolution and it did not receive eight votes in favor or against the application. At NJDEP's request, transmittal of the matter to the New Jersey Office of Administrative Law (OAL) has been put on hold. He briefly noted the changes that have been made to the application: the firebreak has been reduced by five feet on each side to 25 feet, and the use of herbicide is no longer proposed. He said concerns related to threatened and endangered species will be addressed in the report. (Please see the attached slide that was displayed at the meeting.)

Bill Cutts said he is a cranberry farmer and farms three bogs in the area of the proposed firebreak. He said frost, insects, hail, hot weather, drought and wildfire present a risk in growing cranberries. He said the risk of wildfire can be limited with fuel breaks and prescribed burning. He said the area in question is a large span of forest and has limited access. He said firebreaks work and asked the Commission to approve NJDEP's application for a forest firebreak (Application No. 2007-0318.001).

Carleton Montgomery of the Pinelands Preservation Alliance said he hopes that staff will address the impacts to the rare snake study sites in the vicinity of the proposal. He said that the clear cutting may inadvertently create off-road vehicle access to two ponds in the area.

Michelle Forman asked how many acres will be involved in the solar facility in Pemberton Township (Application No. 2021-0112.003).

Director Horner said there is no application for a solar facility at this time, however there may be one in the future. The application up for comment is only to permit testing that will define the limits of the landfill. He said the site is approximately 20 acres.

Fred Akers of the Great Egg Harbor Watershed Association said he supports Hammonton's application for additional drip irrigation to treat wastewater (Application No.1988-0706.024). He said Hammonton has not discharged any wastewater to the surface waters of Hammonton Creek since 2015. He said the older sections of Hammonton's wastewater treatment plant need to be upgraded. He suggested that the Commission consider amending the Pinelands Infrastructure Trust Master Plan to include the Town of Hammonton, not just Regional Growth Areas. He noted that he will be submitting written comments.

Jason Howell of the Pinelands Preservation Alliance said research herpetologists who are familiar with the critical habitat in the area of the proposed firebreak application offered to consult with the NJDEP. He said the researchers were told they would be contacted to provide their expertise but to date that has not happened.

#### Ordinances Not Requiring Commission Action

Chair Matos read the list of ordinances listed on today's agenda that do not require action.

- Franklin Township Ordinance O-18-22
- Monroe Township Ordinance O:14-2022
- South Toms River Borough Ordinance 22-2
- Waterford Township Ordinance 2022-14
- Winslow Township Ordinance O-2022-017
- Winslow Township Ordinance O-2022-018

Acting ED Grogan said the Franklin Township ordinance permits solar energy as an accessory use in certain zoning districts in the Pinelands Area portion of the town. She said the South Toms River ordinance permits a variety of cannabis facilities in the Regional Growth Area.

#### Other Resolutions

Chair Matos presented a resolution granting an extension of time to Atlantic County to purchase properties in the vicinity of Exit 44 on the Garden State Parkway.

Commissioner Irick made a motion To Authorize an Additional Extension of the Time Period for Atlantic County to Complete its Obligations Under the Secondary Impacts Agreement for Interchange 44 of the Garden State Parkway (Resolution # PC4-22-36). Commissioner Lloyd seconded the motion.

Acting ED Grogan said Atlantic County has almost completed its obligation to preserve 356 acres. She said the County needs additional time to purchase the remaining 14 acres.



She said that by approving the resolution, Atlantic County will have an additional year to complete the land acquisition.

The resolution was approved by a resolution of 11 to 0.

Chair Matos said the last resolution on today's agenda is for the adoption of the Fiscal Year 2023 Budgets.

Commissioner Avery made a motion To Adopt the Pinelands Commission's Fiscal Year 2023 Budgets for the Operating Fund, Katie Trust Fund, Fenwick Manor Preservation Fund, and the Pinelands Conservation Fund. Commissioner Irick seconded the motion.

Jessica Lynch, Business Manager, said the FY 2023 budget consists of four separate budgets. She said the Commission's state appropriation has increased by \$150,000 this fiscal year and although it has been steadily increasing since 2017, it does not cover the annual salary and fringe costs.

Acting Director Grogan said \$500,000 has been designated for a new Energy Conservation Reserve to fund a variety of projects: the installation of electric vehicle charging station, pursue installation of solar energy at the Commission's offices, the purchase of two new electric or hybrid vehicles, the purchase of a new energy efficient lawn mower and future HVAC system upgrades. She then reviewed the list of FY 2023 Pinelands Conservation Fund (PCF) initiatives. Some highlights from the list include enhancements to the Box Turtle Study, legislative changes to the Pinelands Protection Act to move the PDC Bank to the Commission from the Department of Banking & Insurance and the possibility of selling Pinelands-themed merchandise, with proceeds supporting the Katie Fund for the Reforestation of the New Jersey Pinelands.

Commissioner Lohbauer urged the Commission to purchase fully electric vehicles if possible. Commissioner Irick cautioned that the Commission should only do so if an electric vehicle charging station has been installed at the office.

Ms. Lynch said the Commission received \$500,000 from the state to be used for the rehabilitation of Fenwick Manor, including exterior painting of the building.

Ms. Lynch said the Katie Fund budget includes supplies to support the recently installed rain garden at the Commission's headquarters.

Acting ED Grogan reviewed the projects supported by the operating fund budget, including ongoing projects and future and unanticipated projects. (See attached budget presentation slides for details.)

Commissioner Lloyd asked how much money is being used from the reserve funds to support the budget. He had concerns about drawing the money down.

Acting ED Grogan said it depends on the year and how much money was received through application review fees and grants. She said as part of future budget planning, the Commission may need to seek assistance for an increase in the state supplemental fund because reliance on the reserve fund and application fees may not always be feasible.

Commissioner Avery said it wasn't long ago when the projected application fees fell short.

Commissioner Lohbauer said he is proud of the measures in the FY 2023 budget that will help to reduce the Commission's carbon footprint.

The resolution was adopted by a vote of 11 to 0.

#### Forestry Policy Recommendation Discussion

Commissioner Lohbauer recused himself from the discussion of forestry policies, noting that he was participating on the Forest Task Force. He left the meeting.

Director Horner said staff has been working with the P&I Committee on recommended forest policies on state-owned land in the Pinelands Area to submit to the Forest Stewardship Task Force. He said Senator Bob Smith formed the Forest Stewardship Task Force in February 2022 after a few of his proposed forestry bills generated a lot of public interest. He said included in the meeting packet materials was a memo that provided a definition of forestry from the CMP, the goals of the Protection Act and a list of 11 suggested forestry policy recommendations. (Please see the attached slide of the forestry policies that are being recommended for consideration. The slide was displayed during the meeting.). He noted that the policies are not regulations and do not supersede the current rules.

Commissioner Wallner said he was supportive of the policies and appreciated the revisions made to the policy related to use of herbicides.

Commissioner Irick said it is important for the Commission to have contact with Senator Smith's office to be sure that the Commission's concerns are heard. He said staff may want to share the letter that was written by Ms. Roth regarding the previous forestry bills.

Ms. Roth said that should the task force move forward with legislation, the Commission would have the opportunity to comment on any proposed bills.

Director Grogan clarified that the recommendations being submitted to the task force are on state-owned lands only and the forestry bills that stalled when the legislation did not move were something different. Several of those bills were focused on procedures, not forestry policies. She agreed that communication with the Governor's office will be essential should any forestry legislation move forward.

Chair Matos thanked Director Horner and other staff for generating the recommendations and said they can be submitted to the task force.

Commissioner Lohbauer returned to the meeting.

General Public Comment

Michelle Forman asked several questions but did not provide comment.

Heidi Yeh of the Pinelands Preservation Alliance (PPA) introduced herself to the Commission as PPA's new Director of Policy.

Other

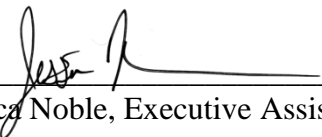
Commissioner Irick said he is prepared to vote yes on the NJDEP forest fuelbreak application after hearing Bill Cutts' testimony.

Commissioner Lohbauer said he still has two questions regarding the NJDEP application; one is related to the impacts of the snake studies in the area of the forest fire fuelbreak and the other is related to herbicide use.

Adjournment

Commissioner Irick moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 11:28 a.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: September 19, 2022