

Disclaimer

These minutes reflect the actions taken by the Commission during its November 10, 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 November 18, 2022.

PINELANDS COMMISSION MEETING

MINUTES

November 10, 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=0AyRV6VvM9A>

Commissioners Participating in the Meeting

Alan W. Avery Jr., Dan Christy, Jerome H. Irick, Jane Jannarone, Theresa Lettman, Ed Lloyd, Mark Lohbauer, Davon McCurry, Jonathan Meade (who joined the meeting at 10:11 a.m.), William Pikolycky, Douglas Wallner and Chair Laura E. Matos. Also participating were Acting Executive Director Susan R. Grogan, Deputy Attorney General (DAG) Katherine Hunt and Governor's Authorities Unit representative Janice Venables.

Commissioners Absent

John Holroyd & Gary Quinn.

Call to Order

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

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

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

The Commission pledged allegiance to the Flag.

Minutes

Chair Matos presented the minutes from the Commission's October 14, 2022 meeting. Commissioner Irick moved the adoption of the minutes. Commissioner Pikolycky seconded the motion.

The minutes from the October 14, 2022 Commission meeting were adopted by a vote of 11 to 0. Commissioner Meade was not present for the vote.

Committee Reports

Commissioner Avery said a pre-audit meeting was held on October 25, 2022. He said the Audit team sent an engagement letter and asked when they would have access to the financial statements. He said state auditors arrived at the Commission on November 1st and will be here for three months in order to conduct the Fiscal Year 2021 audit. He added that records associated with this audit and the Office of the State Auditor are not subject to the Open Public Records Act (OPRA).

Acting Executive Director's Report

Acting ED Grogan provided information on the following matters:

- On November 18th, the Commission will host its second archaeology symposium. The event will be held in-person and livestreamed. Seven presentations are lined up throughout the day and approximately 60 participants have registered. The Commission's staff archaeologist, Tony McNichol, has resigned and the recruitment process has begun in search of a replacement.
- The 60-day public comment period for the Kirkwood-Cohansey rules closed on November 5th. Staff will be organizing and summarizing the public comment received, and the comments are both in support and opposition. A draft of suggested revisions will be shared with the Policy & Implementation Committee at its November meeting. The revisions stem from comments raised by representatives of the resource extraction industry.
- The Commission received half of the appropriation for Fenwick Manor that was granted through the Fiscal Year 2023 State Budget. Quarterly installments will be wired through the New Jersey Department of Environmental Protection (NJDEP), which is the same process that is followed for the Commission's regular state appropriation. A structural analysis of the building will be completed first to ensure stabilization of the structure.
- Application fees continue to be submitted. Sixty-two percent of the budgeted amount for Fiscal Year 2023 has already been received. In turn, the Regulatory Programs office is very busy reviewing applications.
- The NJDEP is moving forward with its Inland Flood Protection Rule as part of a larger package of rules regarding its Protecting Against Climate Threats (PACT)

initiative. Staff has attended some of the briefings on the amendments regarding the stormwater rules. The CMP cross-references NJDEP's rules and adopts them by reference, which means they will automatically take effect in the Pinelands.

- Earlier this week, staff provided Commissioners with a petition to amend the CMP. The petition was submitted by Bill Wolfe. Included was the Commission's letter notifying Mr. Wolfe that his petition is incomplete. Mr. Wolfe would like to see the CMP amended to require monitoring and compliance with the Environmental Protection Agency's final aluminum criteria for regulated activities that disturb soils, generate stormwater, and/or result in point and non-point discharge of pollutants to wetlands and surface waters, including development and forest management activities. The petition was also submitted to the Highlands Council and the NJDEP. Both agencies have published notices in the NJ Register, acknowledging receipt of the petition.

Commissioner Lohbauer asked if staff knew what the NJDEP was planning to do about the petition request.

Acting ED Grogan said the NJDEP is discussing the recommendation raised in the petition but that staff are not aware of how the Department or the Highlands Council plan on responding.

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

- On November 9th, staff opened a public hearing for a change of use application from a restaurant to a deli and food bank. The application is not consistent with the CMP's groundwater quality standards. The applicant requested that the hearing be postponed, and a continuation of the hearing is now scheduled for November 29, 2022.
- In 2006, the Commission issued a Certificate of Filing for the development of over 600 dwelling units in Egg Harbor Township. The homes have not been built. However, through the years, the Township Planning Board has granted extensions under the Municipal Land Use Law and the Permit Extension Act. In 2018, the Commission certified an ordinance that required the redemption of Pinelands Development Credits (PDCs) for 25% of market rate dwellings. Staff is in the process of determining if the applicant will need to purchase PDCs for this project, as the developer wishes to proceed with the project.
- Between 2004 and 2006, approximately 15 Certificates of Filing were issued for the construction of single-family dwellings in Woodland Township. In the past six months, applicants are proceeding with building permits but first need to address threatened and endangered species standards.

Director Horner said the Regulatory Programs office is experiencing an unusually high workload. Between applications, inquiries and reviewing municipal approvals – all of which have different deadlines – staff is busier than ever. He said often an applicant who is not represented by an engineer will contact the Commission and staff will spend a great deal of time explaining the application process, the environmental standards in the CMP and zoning. He commended Regulatory Programs staff for their patience in providing information to potential applicants and members of the public. He added that the Commission may wish to have a future discussion on what types of applications the staff should focus on.

Commissioner Lloyd suggested that the matter be discussed further at a future P&I Committee meeting.

Commissioner Avery asked if applicants are being referred to the Commission by certified municipalities.

Director Horner said some of the more rural municipalities tend to send applicants directly to the Commission. Some towns have part-time zoning officers, whereas Commission staff members are available five days a week.

Acting ED Grogan said steps have been taken so applicants can find answers to their questions by using the website, the Pinelands interactive map, the wetlands map and direct links to zoning codes. In many instances, applicants want to speak to someone. She said a good next step would be to have a discussion at a P&I or Personnel & Budget Committee meeting or with the Governor's office in an effort to hire additional staff.

Commissioner Pikolycky said the Local Review Officer Program needs to be part of any future discussions.

Stacey Roth, Chief of Legal & Legislative Affairs, reminded Commissioners about their obligation to complete both ethics and cannabis training. She said the deadline to complete the training modules is December 2, 2022.

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

- The World Water Monitoring Challenge was held at Batsto and provided the opportunity to educate about 130 students.
- Staff is finalizing the 2023 Pinelands National Reserve wall calendar, which will be distributed free-of-charge in early December at Batsto Village, Belleplain State Forest, Bass River State Forest, Brendan T. Byrne State Forest and Whitesbog Village.
- The Commission will host a presentation on invasive plant species identification today. It will also be livestreamed on the Commission's YouTube channel.

Public Development Projects and Other Permit Matters

Chair Matos introduced a resolution for a two-lot resubdivision and no further development in Monroe Township.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1986-1336.005) (See Resolution # PC4-22-42). Commissioner Avery seconded the motion.

Director Horner said the township is subdividing a small piece of land from a residential property to provide a side-yard buffer for a proposed firehouse.

The resolution was adopted by a vote of 11 to 0. Commissioner Meade was not present for the vote.

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

No one from the public provided comment.

Ordinances Not Requiring Commission Action

Acting ED Grogan said Ordinance O-2022-028 was submitted by Winslow Township in response to a Department of Community Affairs (DCA) model ordinance related to electric vehicle charging stations. The Commission staff identified several minor revisions that were necessary and distributed an amended version of the model to all Pinelands municipalities. The Winslow ordinance is the first ordinance of many that will be submitted for Commission approval.

Presentation

The Pinelands Commission and U.S. Geological Survey (USGS) recently completed a study of endocrine disrupting compounds on fish and frogs in the Pinelands. The study was funded by the William Penn Foundation through the Delaware Watershed Research Fund, which is administered by the Academy of Natural Sciences of Drexel University. Water chemistry and fish were sampled above and below two municipal sewage treatment plants, and water chemistry and frogs were sampled in 13 ponds and stormwater basins. Kelly Smalling from the USGS gave a presentation to the Commission that described the results of the study. (See attached presentation slides.)

Chair Matos thanked Ms. Smalling for her in-depth presentation.

Commissioner Lohbauer asked if the pollution detected in the sampling from both point and non-point sources are causing endocrine disruption and asked what action should be done now that the study is complete.

Ms. Smalling said the pollution is there and studies have shown that pollution can be a determinant of endocrine disruption. However, she said the relationship found in this study

is not causal. She noted that these findings are not new. She said this study provides a baseline for what is in the water, something the Pinelands did not have previously. She said the study tested for over 140 chemicals.

Ms. Smalling said as a federal employee she cannot offer any specific policy recommendations. She said Commissioners should work with staff on what to do with the data produced from the study and whether additional studies should be undertaken.

Commissioner Lohbauer asked if the bass population was in jeopardy due to intersex.

Ms. Smalling said scientists have been study intersex and reproductive success in fish for approximately 20 years and have not found a link. She said scientists need to know more, specifically when the fish become intersex. There has been no effect on the population, particularly in the Pinelands.

Chair Matos left the meeting and Vice Chair Avery ran the remainder of the meeting.

Commissioner Avery asked how many sewage wastewater treatment facilities discharge in the Pinelands Area.

Director Horner said Medford Lakes, Hammonton and Buena are the three sewage treatment plants that discharge in the Pinelands Area. He said other facilities truck the wastewater out of the Pinelands.

Heidi Yeh of the Pinelands Preservation Alliance asked if all personal care products are a problem and how long Endocrine Disrupting Compounds (EDCs) stay in the environment.

Ms. Smalling said it depends on the specific EDC, but it can take anywhere from days, weeks and sometimes even months to break down. She said herbicides break down relatively quickly. She said as far as personal care products are concerned, they are all problematic, however using less of them is helpful.

Commissioner Irick asked if pharmaceuticals are considered a personal care product.

Ms. Smalling said no and that pharmaceuticals were not part of the study. She said she wished that pharmaceuticals could have been included in the study but due to monetary constraints, they were not analyzed.

Commissioner Wallner asked if the estrogen found was from birth control pills.

Ms. Smalling said partly from birth control pills but animals and plants both secrete estrogen, so it was a combination of natural and manmade estrogen.

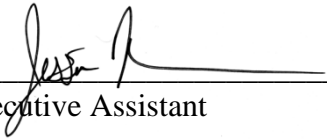
General Public Comment

No one from the public provided comment.

Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Pikolycky seconded the motion. The Commission agreed to adjourn at 11:13 a.m.

Certified as true and correct:



Executive Assistant

Date: November 18, 2022