

Disclaimer

These minutes reflect the actions taken by the Commission during its April 8, 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 April 18, 2022.

PINELANDS COMMISSION MEETING

MINUTES
April 8, 2022

The April 8, 2022 Pinelands Commission meeting was conducted remotely. All participants were present via Zoom conference and the meeting was livestreamed through YouTube:
<https://www.youtube.com/watch?v=9mNXPSaWG-U>

Commissioners Participating in the Meeting

Alan W. Avery Jr., Jerome H. Irick, Theresa Lettman, Ed Lloyd, Mark Lohbauer, Jonathan Meade, Davon McCurry, William Pikolycky 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

Dan Christy, Shannon Higginbotham, Jane Jannarone, Ed Lloyd and Gary Quinn.

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).

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

The Commission pledged allegiance to the Flag.

Minutes

Chair Matos presented the minutes from the Commission's March 11, 2022 meeting. Commissioner Pikolycky moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes from the Commission meeting were adopted by a vote of 9 to 0.

Committee Reports

Chair Matos provided an update on the March 25, 2022 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes of its February 25, 2022 meeting.

The Committee was briefed on a relaunch of a round of Pinelands Conservation Fund (PCF) land acquisition to begin in late April, with project recommendations presented to the Committee in the late summer. A total of \$1.5 million will be made available, with priority given to grassland bird habitat, lands in previously identified acquisition target areas and sites intended to offset or mitigate climate change impacts.

The Committee received a detailed presentation on draft rules for water management involving the Kirkwood-Cohansey Aquifer, including a lower threshold for withdrawal that encompasses more applicants, new stipulations on where aquifer water can be transferred between basins and HUC-11 watersheds, and new standards to prevent adverse local and regional ecological impacts of well diversions on wetlands and surface waters. Staff will prepare a full rule proposal for the Committee's review in May.

The Committee was updated on the progress of rules related to the Electric Transmission Line Right-of-Way Maintenance Program and will receive a draft rule proposal for review at the April P&I meeting.

Acting Executive Director's Report

Acting ED Grogan provided information on the following matters:

- Commissioner Lloyd is recovering from a bad fall, which is why he is not participating in today's meeting. He hopes to be able to participate in the May Commission meeting.
- The recruitment process has begun for two positions that will become vacant due to retirement. One position is for a Research Scientist and the other is for a Management Information Systems Specialist. Both job announcements have been posted on the Commission's website.

- Bethany Williams was introduced to the Commission. She was hired as an Environmental Specialist and began on March 28th.
- The Commission officially reopened the office on April 4th. In-person meetings and file reviews can now be held and visitors are welcome to visit the exhibit. Staff are working out the details for the May Commission meeting to be held in a hybrid fashion. Commissioners and members of the public can attend either virtually or in-person.
- The State announced a one-year Telework Pilot Program that would allow employees to work remotely two-days a week. The Commission will be developing policies to implement the program.
- The Governor's Interagency Council on Climate Change has created a new working group related to public communication. The Commission has been asked to join the working group and Paul Leakan will be the designee.
- Invitations will be sent out soon for the next round of PCF acquisition projects, which Chair Matos mentioned earlier. This is a very similar attempt to the one the Commission embarked on about a year ago and which proved unsuccessful. She said the focus is on grassland bird habitat. The funds for acquisition came from the amended Memorandum of Agreement with the South Jersey Transportation Authority.
- In March, the Commission received a petition from a member of the public to amend the Comprehensive Management Plan (CMP) to restrict and prohibit development in wildfire hazard areas. The New Jersey Department of Environmental Protection (NJDEP) and the Highlands Council also received the petition. Staff has responded by advising the petitioner of the specific process and rules outlined in the CMP in order to complete and move forward with the petition. The Commission has its own petition process, and it is different from the process used by the NJDEP and the Highlands Council.

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

- A letter was shared with all Commissioners earlier this week regarding structural concerns with Tabernacle Township's current municipal building. An emergency authorization was issued to Tabernacle for the placement of three office trailers. It is expected that the trailers will remain on the property past September 1, 2022, at which time Tabernacle would have to file a formal application with the Commission for the placement of the office trailers.
- Staff continue to spend a lot of time working on solar energy projects at landfill sites to ensure groundwater quality standards and threatened and endangered species standards are met.

- An application for a communication tower in Woodland Township will need to be transferred to the New Jersey Office of Administrative Law (OAL). Staff determined that the application for the tower was a principal use for general cellular coverage rather than an accessory use at the Fire and Emergency Services building. The application has been scheduled and rescheduled for a public hearing numerous times. Under normal circumstances, applicants may choose to have a Commission staff public hearing or an OAL hearing and review. For this application, however, there are no members of the Commission staff who could serve as the hearing officer at the public hearing and make an unbiased determination on the application due to staff involvement over the past year. The only available option is to transfer the matter to OAL.

Commissioner Avery said he thought the application would end up at OAL. He said the sooner it gets on the schedule, the better.

Stacey Roth, the Commission's Chief of Legal and Legislative Affairs, said the matter was in the Superior Court, because a local property owner challenged the municipal approval, but has since been dismissed. She said in this instance the matter must go to OAL because all staff members who could conduct the hearing have been involved in the review and interpretation of the application and associated approvals.

Ms. Roth provided an update on the following:

- Financial Disclosure Statements must be filed by May 15, 2022
- Senate bill 2374 was recently introduced and amends the conflict of interest provision in the Pinelands Protection Act related to a determination made by the State Ethics Commission (SEC) in February 2009. In 2009, the Commission was formalizing CMP amendments related to the Pinelands Development Credit (PDC) Program. The SEC's 2009 determination stated that Commissioners residing in the Pinelands who had an agricultural business interest and are eligible for a PDC allocation could not participate in the rule amendment discussions because of the possibility of an indirect benefit. This bill would eliminate the exclusion against participation by "members" of the Commission on matters in which they may have a direct or indirect financial interest and, in its place, Commission members would be prohibited from taking official action on any matter in which they have a personal interest.
- All litigation surrounding the New Jersey Natural Gas matter has been exhausted. The Pinelands Preservation Alliance requested the New Jersey Supreme Court review the Appellate Division's Opinions on the substantive, process and third-party hearing denial appeals. The Supreme Court denied the requests for certification, with costs.

Paul Leakan, the Commission's Communications Officer, said the Commission held the 33rd annual Pinelands Short Course at Stockton University on March 12th. More than 400 people attended the event, which featured 31 educational presentations. The online event and course evaluations are overwhelmingly positive. He said that 98.13% of the respondents said they would attend again. Staff members are now planning the 6th annual Pinelands Summer Short Course, which will be held in Hammonton on July 21st.

He said staff has been working diligently on a project to design and install a rain garden at the Commission's headquarters. In recent weeks, the Rutgers Cooperative Extension has sent the Commission two engineering and design plans for the garden, and Commission staff has been reviewing and providing comments on those plans. Mr. Leakan said he has been working to source the plant species at numerous nurseries.

Lastly, Mr. Leakan said the New Jersey Department of Environmental Protection held its 34th annual, virtual GIS Mapping Contest on April 7th, and the Pinelands Commission won 2nd place in the Story Map category for our [Pine Barrens Byway Story Map](#).

Public Development Projects and Other Permit Matters

Chair Matos introduced a resolution recommending a water main installation project in Lakehurst Borough and Manchester Township and the installation of sidewalks associated with a road project in the Town of Hammonton.

Commissioner Avery made a motion to adopt a resolution Approving With Conditions Applications for Public Development (Application Numbers 2018-0163.001 & 2021-0284.001) (See Resolution #PC4-22-16). Commissioner Lohbauer seconded the motion.

Director Horner said the first application is being submitted by Weston Solutions on behalf of the US Army Corps of Engineers. The application is for less than a half-mile of water main to serve approximately six uses that have suffered from groundwater contamination from the Joint Base McGuire Dix Lakehurst (JBMDL). The applicant is proposing 250 linear feet of Horizontal Directional Drilling (HDD) due to the presence of wetlands and wetlands buffers. He said the reports specifies a safety plan to address any possible breakout of drilling fluid.

Director Horner said the second application is for sidewalks along the White Horse Pike in Hammonton.

Commissioner Lohbauer said the Commission has had many discussions on HDD after the inadvertent return (IR) that occurred at JBMDL. Commissioner Lohbauer said in the event there is a spill from the drilling, he wants the contractor to stop working, notify the Commission and not resume drilling until Commission staff site inspect the damage.

Director Horner said he believes the condition can be met and is in the parameters of the Commission's rules, if Acting ED Grogan finds that acceptable. He added that Ms. Bolt

from Weston Solutions is on the Zoom meeting and may be able to provide additional information.

Ms. Bolt said a generic HDD contingency plan was submitted as part of the application. She said once the bid has been awarded to a contractor, a specific HDD contingency plan will be secured and can include language stating that should an IR occur, drilling would cease, and the Commission would be notified and not begin again until a representative of the Commission inspects the site.

Commissioner Irick asked about the size of the water main that would be installed and asked about the pressure of the drilling grout. He said his research suggests that the pressure used influences the potential for an IR. He also asked about the depth of the pipe that would be placed under the wetland.

Ms. Bolt said its a 12-inch water main that is being installed. She said she would have to research the proposed pressure of the drilling and provide information at a later time. Lastly, she said the pipe will be placed at a minimum depth of four feet below the invert of the stream.

Director Horner said staff is looking forward to having regulations that address HDD activities. He said the current rules in the CMP do not address construction activities. He encouraged the Commission to vote on that application without the information on the drilling pressure.

Ms. Roth added that that Commissioners should make a decision based on the current provisions of the CMP.

Commissioner Avery said the applicant understands the concerns of the Commission and he feels comfortable relying on their expertise.

Commissioner Irick requested a roll call vote for the water main application.

Acting ED Grogan suggested that the Commission proceed with the vote on the resolution for both applications. If the vote indicates a need to separate the applications into two resolutions, that can be done. The roll call vote then occurred as follows:

Commissioner Avery	Yes
Commissioner Holroyd	Yes
Commissioner Irick	Yes, with reservation
Commissioner Lettman	Yes
Commissioner Lohbauer	Yes
Commissioner McCurry	Yes
Commissioner Meade	Yes
Commissioner Pikolycky	Yes
Chair Matos	Yes

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

Chair Matos introduced a resolution recommending approval of a Waiver of Strict Compliance for the development of a single family dwelling in Jackson Township

Commissioner Lohbauer made a motion to adopt a resolution Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 2020-0238.001) (See Resolution #PC4-22-17). Commissioner Holroyd seconded the motion.

Director Horner said Waiver of Strict Compliance applications come before the Commission when a certain standard of the CMP cannot be met. He said in this instance the applicant cannot meet the 300-foot buffer to wetlands. The waiver will allow for a decreased buffer of 175 feet. He said when the CMP was being developed, the Commission followed legal advice and incorporated waiver provisions so as not to take land from property owners and provide a minimum beneficial use.

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

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

No public comment was received.

Ordinances Not Requiring Commission Action

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

- Jackson Township Ordinance 06-22
- Vineland City Ordinance 2022-13

Local Government Energy Audit Presentation

Jessica Lynch, Business Services Manager, said the Commission applied to the New Jersey Board of Public Utilities for a Local Government Energy Audit (LGEA) to determine potential energy efficient measures that could be implemented at the Commission's facilities. The Research Company (TRC) visited the Commission offices to evaluate the existing conditions. Staff provided TRC with two-year's worth of electric and natural gas bills. TRC prepared two reports, including one for the Richard J. Sullivan Center and another report for the other buildings. She reviewed the recommendations TRC suggested: LED fixtures, installing dimmer switches, motion detector lighting, insulation of pipes, and the eventual replacement of the 15 existing HVAC units and eight heating units. She reviewed the cost implications of the suggestions and along with the potential savings and reduction in the carbon footprint. The full reports have been posted on the Commission's website. (See attached presentation slides)

Director Grogan added that staff asked TRC about the potential for solar. She said TRC determined that based on trees, shade, and the parking lot, there would be no benefit from installing a solar array.

Commissioner McCurry asked how the self-funding loan would work.

Acting ED Grogan said unfortunately representatives from the Energy Saving Improvement Plan (EISP) did not join the final meeting with TRC, so it's something that staff would need to further investigate. She noted that with the Fiscal Year 2023 budget beginning, this is a good time to be thinking about building improvements and budgeting for them.

Commissioner Lohbauer requested that the LGEA reports be added to the Climate Committee meeting agenda for further discussion and addition energy saving recommendations.

General Public Comment

Rhyan Grech of the Pinelands Preservation Alliance (PPA) said she understands that the CMP does not regulate construction techniques; however, HDD is used as a mitigation measure to avoid adverse impacts on wetlands. She said HDD has a 50% failure rate. She was thankful for the overview Director Horner provided on the Woodland Township cell tower matter. She requested that the Commission consider designating PPA as an interested party when the matter is transferred to OAL.

Other

Commissioner Lohbauer said Earth Day is coming up and he asked that everyone try and reduce their carbon footprint.

Adjournment

Commissioner McCurry moved to adjourn the meeting. Commissioner Holroyd seconded the motion. The Commission agreed to adjourn at 10:51 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: April 18, 2022