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THE PINELANDS COMMISSION
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RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

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MEMORANDUM

To: Land Use, Climate Impacts and Sustainability Committee Members

From: Nancy Wittenberg
Executive Director 

Date: April 20, 2021

Subject: Meeting materials

Enclosed please find the agenda for the Committee's upcoming meeting on Wednesday, April 21, 2021. We have also enclosed the minutes from the two previous Committee meetings: January 20, 2021 and March 17, 2021.

The Committee meeting will be conducted through Zoom.

The public will be able to view and participate in the meeting through the following YouTube link:
<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>



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LAND USE, CLIMATE IMPACTS AND SUSTAINABILITY COMMITTEE MEETING

April 21, 2021

9:30 a.m.

Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

To Provide Public Comment, Please Dial: 929-205-6099 Meeting ID: 830 7009 8090

Agenda

1. Call to Order
2. Adoption of the January 20, 2021 & March 17, 2021 Committee meeting minutes
3. Consideration of Committee name change
4. Update on Forestry Legislation
 - Prescribed Burn (S3548)
 - Forest Stewardship
 - On state owned land (S2001)
 - On lands acquired for recreation and conservation (S3549)
 - Pinelands Area (S3547)
 - Municipal approval not required (S3500)
5. Continued discussion of solar energy facility regulations and policy options
 - Tree removal limitations
 - Management area limitations
 - Landfill closure requirements
 - Requirement for solar on new construction
 - Residential
 - Commercial
 - Public Development
 - Redevelopment
6. Public comment

Land Use, Climate Impacts & Sustainability Committee Meeting

This meeting was conducted remotely
All participants were present via Zoom conference

YouTube link: <https://www.youtube.com/watch?v=yObES2AIsO8>

Minutes January 20, 2021

MEMBERS IN ATTENDANCE: Chairman Mark Lohbauer, Richard Prickett, Edward Lloyd, Shannon Higginbotham and Alan W. Avery

STAFF PRESENT: Executive Director Nancy Wittenberg, Susan Grogan, Jessica Lynch, Stacey Roth, Ed Wengrowski, John Bunnell, Ernest Deman, Brad Lanute, Gina Berg, Marci Green, Chuck Horner, Branwen Ellis and Paul Leakan

Governor's Authority Unit: Jamera Sirmans, Rudy Rodas (10:50 a.m.)

1. Call to Order at 9:33 a.m.

Chairman Lohbauer welcomed new Commissioner Higginbotham

2. Adoption of the October 30, 2020 Committee meeting minutes

Commissioner Lloyd moved the adoption of the minutes from the October 30, 2020 Committee meeting. Commissioner Avery seconded the motion, and the minutes were adopted with all voting in favor.

3. Discussion of solar energy facilities in the Pinelands Area

- **NJ Board of Public Utilities (BPU)-Community Solar Pilot Program**
Resource Planner Brad Lanute provided an overview of the BPU Community Solar Pilot Program.

BPU is currently in Program Year 2 with applications due by February 5, 2021. The rules for the permanent program are anticipated in early 2022.

In Year 1 there were 253 applications with 45 approved. Three of the approved applications were for facilities in the Pinelands. There were some changes for Year 2 including the requirement for a letter from the Pinelands Commission for any projects in the Pinelands. The letter needs to address whether the project is "consistent with the land use priorities in the areas". The Commission has provided such letters.

- **Comprehensive Management Plan (CMP) standards**

Director Susan Grogan continued with the presentation discussing Comprehensive Management Plan (CMP) amendments dealing with solar facilities (N.J.A.C. 7:50-5.36).

The primary amendments were made in 2012. The amendments encouraged solar on rooftop and parking by making them accessory. The amendments expanded the exemption to include solar on existing structures and impervious surfaces. The amendments also expanded opportunities for principal use of large scale solar facilities. Limitations in Preservation Area, Special Agricultural and Forest Areas were included.

- **Recent application activity and issues**

Director Grogan provided an overview of the solar applications received noting that most were on landfills. She noted that the accessory installations do not require a permit so there are no records for these.

- **Possible Amendments**

An overview of possible CMP amendments for the Commission to consider were discussed and included land fill closure (capping), outstanding violations, threatened and endangered species, tree removal, offsite infrastructure and restoration obligations.

Commissioner Avery asked if prime agricultural soils in the Rural Development Area (RDA) were based on soil type or active farmland. Director Grogan responded that it is based on soil type. She said she has acreage figures on the number of acres of prime agricultural or farmland soil in the RDA, and it is not a huge area. Commissioner Avery commented that maybe the Commission might want to have the restoration standards be more oriented to providing grassland habitat at the mining sites.

Chairman Lohbauer spoke about the prime agriculture sites in the RDA, and his concern about pressure going forward to allow for larger size facilities in Agricultural Production Areas (APA) due to the imposed, current limitations. Director Grogan stated the limitations were put in place to preserve agricultural land.

Commissioner Prickett stated the Commission should look at how farmers can use their land as a revenue stream for agriculture to support other types of agriculture compared to solar arrays. Commissioner Prickett spoke of whether or not landfills will ever have an impervious cover due to the expense. The Commission could possibly consider looking for an offset for not covering a landfill and allowing for a solar array to be put on top of landfills. Commissioner Prickett asked about the extent to which the Commission wants to see solar in the Pinelands.

Chairman Lohbauer stated he is not in favor of landfills forgoing an impermeable cap, due to leaching into the water supply, especially in the Pinelands. Chairman

Lohbauer asked whether the landfills have considered using the income stream from the solar arrays to finance the impervious cover. Environmental Technologies Coordinator Ed Wengrowski said this has been researched and the revenue generated from the sale of credits is insufficient to pay for the cap.

Commissioner Higginbotham asked if there are any requirements in place for the removal or replacement of solar to prevent long-term abandonment issues. Director Grogan replied that yes there is a standard in place.

Commissioner Prickett asked if there is bonding associated with solar clean-up, Director Grogan said the municipalities may have guidelines. The CMP does not.

4. Update on the New Jersey Department of Environmental Protection's NJPACT (Protecting Against Climate Threats) regulatory reform effort given by Executive Director (ED) Nancy Wittenberg

- ED Wittenberg provided an overview of stakeholder presentations by the NJDEP. She explained that a lot of material was presented and that it is a very comprehensive effort. For DEP a lot of it has to do with the significant coastal issues and sea level rise. The proposed changes are significant. In addition to changing regulatory standards DEP is also changing its regulatory process. It is establishing a new permit by registration to assist in keeping records of all changes made. ED Wittenberg stated this is something the Commission may consider.
- DEP discussed offshore wind and solar and noted that one resource should not be at the expense of another. DEP also noted that they currently do not regulate horizontal directional drilling for energy generated offshore coming to shore, but they acknowledge there will be competing needs.

5. Review of maps prepared using NJ FloodMapper – Resource Planner Gina Berg

Gina Berg delivered a presentation on the NJ FloodMapper tool which creates maps to show the risk of flooding from sea level rise. She showed 3 maps that showed risk associated with sea level rise and storm surge

6. Legislative update – Stacey Roth, Chief of Legal and Legislative Affairs

Stacey Roth provided a summary of the following climate change related proposed legislation:

Bill S2607 A2785 – requires land use plan elements of municipal master plans to include climate change related hazard vulnerability assessments

Bill S2605 A4554 – directs BPU to establish a utility scale solar energy development program.

Bill S938 – establishes standards for installation of electric vehicle charging stations, authorizes municipal deviation from standards and exempts installations at gasoline service stations from certain requirements.

Bill S3184 – a three-year program provides corporations business tax credits and gross income tax credits for the installation of electric vehicle charging stations for business, based on a sliding scale

Bill S3223 – defines electric vehicle charging infrastructure as inherently beneficial under the Municipal Land Use Law, makes it a permitted accessory use in all municipal zoning or use districts

Bill S3091 – requires developers to offer unit concrete products that utilize carbon footprint reducing technology as an option in new construction, establish tax incentives and state and local purchasing requirements for the use of concrete products using this new technology

Bill S3134 – requires all new state buildings to have solar or geo-thermal energy systems where feasible

Bill S2846 – requires state agencies in awarding contracts for purchase of items that require power sources to consider items fueled powered by fuel cells

Bill S1010 – permits counties and municipalities to bond for the purchase of alternative fuel vehicles

7. Public comment

Mayor Joe Venezia, City of Estell Manor –

Mayor Venezia asked if the Pinelands Commission knows how many identified contaminated sites there are in the Pinelands? Director Grogan stated she does not have that information but will investigate it. The Mayor explained that the Estell Manor landfill has been identified as number 17 from the bottom of least contaminated sites, meaning there are only 16 less contaminated sites than Estell Manor. He said the Pinelands Commission should welcome solar development on landfills without an impervious cap. He said that financially it is not feasible to wait until the cap is installed before installing solar in Estell Manor City.

He noted that his engineer can clear personal property and plant blueberries but not solar; or can clear for development but not solar. He doesn't feel property owners should be prohibited to do what they want with their property other than paying taxes. He said it makes it difficult for owners of large tracts of land to do anything other than to sell to the state, and it becomes a burden to the municipality. Chairman Lohbauer stated that the Commissioners cannot respond to his concerns not having knowledge of the property, but he suggested reaching out to Commission staff to find out what regulations relate to the Mayor's property

Mayor Venezia asked if the Pinelands Commission is going to allow solar development on landfills without an impermeable cover. Mayor Venezia gave a brief history of the Estell Manor landfill. Chairman Lohbauer said that is something to be answered by the full Commission, which would decide whether a full impermeable cap would be required on the Estell Manor landfill. Mr. Wengrowski said the Commission has been working with Estell Manor and suggested a pathway to resolve this outstanding issue. The City has been complying with the requested water monitoring program. The Commission is following regulations through this process and will respond once it has the information. The Mayor asked if solar can only be placed on the actual landfill area utilized or if it can go to surrounding areas onsite. Mr. Wengrowski said that if they have to generate some fill, they can clear a reasonable area that they can substantiate was necessary to be cleared to generate some dirt that they would use to put on top of that landfill to finalize its stormwater management plan. Mr. Wengrowski said you can then put solar on the actively landfilled portion and within reason any area that was disturbed to generate fill that was necessary to close the landfill. The Mayor asked for some leniency from the Commission for this municipal owned landfill in order for the City to put the solar development onsite, as solar companies are not interested in doing development on sites smaller than what can produce a minimum of 5GB of electricity, or approximately 25 acres.

Rhyan Grech of the Pinelands Preservation Alliance said the reason we're having this conversation today, the reason the LUCIS Committee exists in the first place, the reason that there is a climate crisis currently is because we didn't adequately protect our natural resources in the first place. The Pinelands Commission doesn't have jurisdiction over the entire state as other state agencies do. The Commission exists to protect this very rare and sensitive area of the state. When the Commission is thinking about the Pinelands' renewable energy contribution, the Commission is not thinking about it in the same way as these other statewide agencies, because the area within the Pinelands is particularly sensitive and rare and needs those levels of protection. When the Commission is thinking about some of the amendments to pursue, she said she hopes the Commission will consider the protections that have been put in place in the past. The protections must be the top priority. She said the NJDEP is considering a number of changes to the rules with regard to Horizontal Directional Drilling (HDD).

Commissioner Avery asked if the caller could provide source for the 50% industry failure rate that the caller provided. Chairman Lohbauer said he will reach out to the caller to get that information.

Commissioner Prickett said at this time this is just a discussion about these issues, and there is no agenda to make changes at this time. He said it is just a sharing of ideas.

Commissioner Avery thanked the staff for the work going into today's meeting.

Chairman Lohbauer thanked staff. Chairman Lohbauer thanked Executive Assistant Jess Noble for providing links to Commission members and staff. Chairman Lohbauer asked members to consider changing the name of committee to something shorter.

Chairman Avery moved the adjournment of the meeting. Commissioner Prickett seconded the motion and all agreed. The meeting adjourned at 12:46 PM.

Minutes submitted as true and correct.

A handwritten signature in black ink that reads "Carol A. Ebersberger". The signature is written in a cursive style and is positioned to the left of the typed name.

Carol A. Ebersberger
Business Specialist

Date: January 26, 2020

Land Use, Climate Impacts & Sustainability Committee Meeting

This meeting was conducted remotely.
All participants were present via Zoom conference.

YouTube link: <https://www.youtube.com/watch?v=Z8LcdSEsr3c>

Minutes March 17, 2021

MEMBERS IN ATTENDANCE: Chairman Mark Lohbauer, Edward Lloyd and Shannon Higginbotham

STAFF PRESENT: Executive Director Nancy Wittenberg, Susan Grogan, John Bunnell, Ernest Deman, Gina Berg, Chuck Horner, Branwen Ellis, Stacey Roth and Paul Leakan

Governor's Authority Unit: Rudy Rodas

1. **Call to Order at 9:33 a.m.**
2. **Adoption of the January 20, 2021 Committee meeting minutes**
 - The Committee did not have a quorum, so the minutes will be considered for adoption during a future meeting.
3. **Discussion of recommendations for a new round of land acquisition using the Pinelands Conservation Fund (PCF).**

Pinelands Commission Resource Planner Gina Berg delivered a PowerPoint presentation, which is available at the following link:

<https://www.nj.gov/pinelands/home/presentations/March%202021%20PCF%20UPDATE.pdf>

– Permanent Land Protection

Ms. Berg provided a brief background on the Pinelands Conservation Fund. At this time, the Commission is suggesting a revision in the priorities for the new round of funding.

Stacey Roth, Chief of Legal and Legislative Affairs, provided an overview of the 2019 Amendment to 2004 Memorandum of Agreement (MOA) with the South Jersey Transportation Authority (SJTA). The money being used for this round of land preservation was included in the MOA as necessary to preserve land for the

bird species habitat lost due to the change required to the MOA to allow for the change in the bird habitat preserved.

Ms. Berg continued with her presentation, noting that \$1 million would be allocated in the next round of land acquisitions. She discussed the schedule and the draft priorities for land acquisitions, while detailing a draft Project Evaluation Matrix.

Chairman Lohbauer asked why Carbon Sequestration is ranked at a low level on the Project Evaluation Matrix. Planning Director Grogan stated that this matrix is targeted to make sure projects with grassland habitat rank highest due to the Commission's obligation under the SJTA MOA. She said adjustments can be made to the matrix.

Commissioner Lloyd stated he agrees with Commissioner Lohbauer, noting that carbon sequestration should always be a priority. He asked about wildfire hazard mitigation and its relationship with Climate Change Mitigation on the matrix. Ms. Berg explained that the mitigation issues are about human loss.

Committee members and staff then discussed edits that should be made to the matrix.

4. Forest Management -Chairman Lohbauer introduced:

- Leslie Sauer, author, founder of Andropogon Associates and founding board member of the Northeast Region of the Society for Ecological Restoration. Ms. Sauer delivered a presentation on "Climate Change, Fire and Forestry." Ms. Sauer said that she has worked in the Pinelands since the beginning. She said the old rules do not apply anymore, we must move quickly. She explained that proforestation is response to climate change. With regard to forest burning it is scientists who should tell you where to burn not foresters.

The full presentation can be viewed at:

<https://www.state.nj.us/pinelands/home/presentations/Pinelands%20317%20pdf.pdf>

- John Cecil, Vice President for Stewardship, New Jersey Audubon Society, delivered a presentation on "Forest Conservation in the New Jersey Pinelands. Mr. Cecil stated that urgency is now. He said to address climate change you need science, planning and action.

The full presentation can be viewed at:

<https://www.state.nj.us/pinelands/home/presentations/NJ%20Pinelands%20Forest%2017Mar2021.pdf>

Following the presentations, committee members and staff asked the presenters several questions. Both speakers agreed there is a need for expansion of prescribed burning.

5. Consideration of LUCIS Committee name change – Chairman Lohbauer

Chairman Lohbauer suggested that the name of the Committee should reflect the Committee's purpose and what it does. He recommended changing the name of committee to the Climate Action Committee. Several Commissioners who were present agreed with the suggestion. Action cannot be taken at this time due to not having a quorum, so the possible name change will be considered at a future meeting.

6. Public comment

William Zipse of the New Jersey Forest Service said he appreciated the discussions. He offered forest service analysis, data and tools. Chairman Lohbauer invited Mr. Silsbee to deliver a presentation to the Commission.

Bernard Isaacson of the New Jersey Forest Service spoke of the meaning of the word "sequestration." He discussed the pool and flux of carbon. He said old forests have a larger carbon pool but a smaller carbon flux, whereas a young forest has a smaller carbon pool and a larger carbon flux. He spoke of forests versus trees and muck soils in the Pinelands.

Margo Pellegrino asked about illegal, off-road vehicle use and disrupting soils. She expressed concern over pipeline spills and accountability. She is also interested in land preservation efforts.

Georgina Shanley said New Jersey is in climate crisis mode and carbon sequestration should be the highest priority. She noted her concerns about Assembly Bill 4846, proposed by Assemblyman Ronald S. Dancer.

Rhyan Grech of the Pinelands Preservation Alliance expressed concerns about forests that could be cut down to create grassland habitat. She questioned why the Commission is only looking at properties near the Atlantic City Airport using the funds coming from SJTA. She said the presentations were excellent. She commented on the fire break issue that was brought up by Leslie Sauer. She said that presentations by John Cecil are on large-scale data, but do not get down to the micro level that we need in the Pinelands. She stated there was a study done by KI Clark Journal of Sustainable Forestry, 2015, "Fire Management and Carbon Sequestration in Pine Barrens Forest." She said the study demonstrated that all the carbon released during a fire is recovered in two to three years in a pine barrens system. Chairman Lohbauer responded to the consideration of properties that are in close proximity to the airport. The Commission was trying to facilitate the creation of new habitat for the displaced grassland bird population.

Commissioner Lloyd said he is interested in knowing what off-road vehicle use does to soil retention and carbon in the Pinelands. He asked if Ms. Grech could send a citation to the article she referenced.

Chairman Lohbauer moved the adjournment of the meeting. Commissioner Higginbotham seconded the motion and all agreed. The meeting adjourned at 12:46 p.m.

Minutes submitted as true and correct.

A handwritten signature in cursive script that reads "Carol A. Ebersberger". The signature is written in black ink on a white background.

Carol A. Ebersberger
Business Specialist

Date: January 26, 2020