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Lt. Governor

State of New Jersey  
THE PINELANDS COMMISSION  
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## MEMORANDUM

To: Pinelands Climate Committee Members

From: Nancy Wittenberg  
Executive Director 

Date: May 14, 2021

Subject: Meeting materials

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Enclosed please find the agenda for the Committee's upcoming meeting on Wednesday, May 19, 2021. Also included are the minutes from the April 21, 2021 Committee meeting. We are also sharing suggestions from Commissioners regarding potential amendments to the Comprehensive Management Plan's solar energy facility regulations.

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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### **PINELANDS CLIMATE COMMITTEE MEETING**

May 19, 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: 894 4467 6400

#### **Agenda**

1. Call to Order
2. Adoption of the April 21, 2021 Committee meeting minutes
3. Update on forestry legislation
4. Continued discussion of solar energy facility regulations and potential CMP amendments
5. Discussion of operational improvements at the Commission's offices
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/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

### **Minutes April 21, 2021**

**MEMBERS IN ATTENDANCE:** Chairman Mark Lohbauer, Edward Lloyd, Alan Avery, Jerome Irick, Richard Prickett and Shannon Higginbotham

**STAFF PRESENT:** Executive Director Nancy Wittenberg, Susan R. Grogan, Ernest Deman, Chuck Horner, Branwen Ellis, Stacey Roth, Ed Wengrowski, Kim Laidig and Paul Leakan

**District Attorney General (DAG):** Kristina Miles  
**Governor's Authority Unit:** Rudy Rodas

- 1. Call to Order at 9:33 a.m.**
- 2. Adoption of the January 20, 2021 & March 17, 2021 Committee meeting minutes**  
Commissioner Lloyd moved the adoption of the minutes from the January 20, 2021 and March 17, 2021 meeting minutes, with an amendment to the January 20, 2021 minutes presented by Chairman Lohbauer. The proposed amendment would involve updating the minutes to reflect receipt of an email from Rhyan Grech after the Committee meeting in response to a request made by Commissioner Avery for evidence of the 50% failure rate for HDD activities. Committee members then discussed whether it would be appropriate to amend the minutes to include a statement or information about materials received after the meeting. Commissioner Lloyd made a motion to approve the January 20, 2021 minutes as drafted with an appendix added to include Ms. Grech's subsequently received email. Commissioner Prickett noted that caller William Zipse's name needs to be corrected in the March 17, 2021 minutes. Commissioner Irick seconded the motion. The minutes were adopted with all voting in favor.
- 3. Consideration of Committee Name Change**  
Chairman Lohbauer suggested changing the name of the Land Use, Climate Impacts and Sustainability Committee to the Climate Action Committee to better reflect the Committee's work.

Commissioner Prickett said he believes the Committee should be looking at climate change in how it impacts the Pinelands Comprehensive Management Plan (CMP), so he suggested that the Committee be named the Pinelands Climate Committee.

Commissioner Irick said his concern is that by singling out the word “climate,” it would limit the scope of the Committee’s work. He said he is interested in having this Committee discuss some current CMP land use standards and their relationship to climate change. He said he feels land use should be part of this Committee’s name.

Commissioner Lloyd stated he believes two different issues are being talked about: the name of the Committee and its mission. He said he agrees with Commissioner Irick on the mission, and we may want to state that. He said he agrees the name of the Committee should be shortened; he has no problem with the name Commissioner Prickett introduced.

Commissioner Prickett added that he agrees with Commissioner Lloyd that having a well-defined mission is vital.

Commissioner Avery said he thinks the name should be the P&I Committee as it’s essentially the same Commissioners. He said he agrees with Commissioner Prickett that the Committee should be focusing on how the CMP needs to be amended – if it does need to be amended at all. That has traditionally been the job of the P&I Committee. He stated that even through COVID and doing virtual meetings, it is difficult to get attendance and staffing for all the Committee meetings. He said that maybe by reducing the meetings even by one, it may be easier on the staff particularly. He said given the current make-up of the Commission, the same six or seven Commissioners are the ones participating in all the meetings.

Chairman Lohbauer said he agrees with Commissioner Avery and Commissioner Prickett that the limits of the Commission’s authority are defined by the CMP and the Commission can’t expect to take actions that exceed that authority. He said he agrees that the focus of this Committee is to look first to the CMP to see if it requires amendments to mitigate the climate crisis in the Pinelands. He said he feels due to the urgency of the problem, the goal is to identify what the issues are, where the Committee would recommend revisions, bring the amendments to the full Commission for approval, and then perhaps disband this Committee once climate protections have been put into the CMP. He spoke of why he feels “Climate” should remain the focus of this Committee.

Commissioner Higginbotham said she is in agreement with the name being changed so that it is easily understood.

Commissioner Irick motioned to change the name to the Pinelands Climate Committee, and it was seconded by Commissioner Higginbotham. The motion passed with all voting in favor.

**4. Update on Forestry Legislation – 5 Bills at Senate Environment and Energy Committee hearing public testimony, April 21, 2021**

Stacey Roth, Chief of Legal and Legislative Affairs, updated the Committee on the following legislation:

- Prescribed Burn (S3548) – sets minimum acreage goal of 50,000 acres

Commissioner Prickett expressed his concern about the intense fires disrupting the ecology of the Pinelands. He said he supports prescribed burns but is not sure about the 50,000 acre minimum. He said there should be an ecologically-based determination of the appropriate acreage. He said he is opposed to pro-forestation for the fire-prone areas in the Pinelands. It may make sense in cedar forests but mixed forests need management.

Chairman Lohbauer said he wanted to clarify that both Ms. Sauer and Mr. Cecil, in their presentations at the previous Committee meeting, agreed that prescribed burning is an important and appropriate technique to suppress the spread of wildfire in the Pinelands. Ms. Sauer's issue was with the arbitrary 50,000 acre target established in the bill; it is not specific to certain areas or forest types. Chairman Lohbauer said that he had submitted comments on the bill to the Senate Committee as a private citizen. He suggested that the bill should provide standards, not merely a required number of acres.

Commissioner Avery questioned what the bill would require the Commission to do, as we don't do any prescribed burning ourselves nor do we approve applications for prescribed burning.

Ms. Roth said that the bill requires NJDEP to incorporate the goals of the bill in its forestry plans, although it is unclear exactly what that means.

Commissioner Lohbauer said that the Commission has no information to indicate whether the 10,000 acre target outside the Pinelands is appropriate. He questioned how the Commission could support a bill of this nature.

Commissioner Avery said that while the Commission could be supportive of the importance of prescribed burning in the Pinelands, it could not support this particular bill.

Commissioner Lohbauer said that it was certainly appropriate for this Committee to review the bill because of the clear relationship between prescribed burning and carbon sequestration. He said the Committee has no way of knowing whether the arbitrary doubling of the amount of acreage to be burned is necessary.

Commissioner Lloyd said that maybe the Commission could come up with a plan to suggest to Senator Smith, based on our management of the Pinelands for the

past 40 years. He said he would like to hear John Bunnell and Emil DeVito's thoughts on the matter. He suggested we ask Senator Smith to fund a position at the Commission to do the necessary studies or perhaps seek a grant.

Ms. Wittenberg said that new grants carry with them requirements to hire new staff. She said that the Committee should ask NJDEP to come and talk about grants and the work they're already doing. Commissioner Avery agreed that he would like to hear from the State foresters and forest fire experts. Chairman Lohbauer confirmed that he had previously invited Bill Zipse and other NJDEP staff to speak at a future Committee meeting.

Commissioner Lloyd asked Ms. Wittenberg to distribute copies of Chairman Lohbauer's comments to the legislature on this bill.

- Forest Stewardship
  - S2001 requires the New Jersey Department of Environmental Protection (NJDEP) to develop Forest Stewardship Plans on state-owned land
  - S3549 requires forest stewardship plans for lands acquired for recreation and conservation purposes.
  - S3547 establishes a group called the Pinelands Forest Stewardship Working Group within the NJDEP. Its purpose is to evaluate coordination and cooperation between federal, state and local government entities and private landowners with respect to development and the approval of forest stewardship plans in the Pinelands, and to make recommendation as to how such coordination and cooperation can be improved.
- Municipal approval not required (S3550) – This bill states that no municipal approval is required for forest stewardship plans.

The Committee discussed and commented on the proposed bills. Chairman Lohbauer indicated a concern that S2001 and S3549 encourage and may even mandate forest thinning.

Commissioner Prickett said that he thought the bills left room for different forest management techniques and may end up having beneficial results.

Chairman Lohbauer said that the Forest Stewardship Working Group would include representatives of the logging industry and non-profit organizations who may favor forest thinning. He said this was a threat to preservation of the dense forests of the Pinelands that play an important role in carbon sequestration. He said that at this point, biodiversity isn't as important as minimizing the amount of carbon in the atmosphere.

Ms. Roth said that the bills do not clearly define harvesting and thinning.

Commissioner Irick said that the Commission should be represented on the Forest Stewardship Council charged with reviewing stewardship plans for State lands under S2001.

Ms. Roth noted that the Pinelands Forest Stewardship Working Group established by S3547 does include the Chairman of the Pinelands Commission and the Chairman of the Pinelands Municipal Council. In addition, there would be representatives from NJDEP and the Department of Agriculture. The Working Group seems to have very limited Pinelands representation.

Chairman Prickett agreed that it is insufficient to have just the Chairman of the Commission involved. Other Commissioners and/or staff should be members of the Working Group. He suggested the full Commission might wish to take up this matter and adopt a resolution.

Commissioners Lloyd, Avery and Lohbauer agreed that there was no need for this bill or the Forest Stewardship Working Group; management of the Pinelands should be left to the Commission.

Chairman Lohbauer suggested that the Committee's comments be sent to the legislative sponsors of the bills. Rudy Rodas asked that the Commission first share its comments and concerns with his office; they will then help facilitate those discussions and provide a coordinated effort.

Chairman Lohbauer said he is opposed to S3550 and finds it to be particularly unfair if municipalities will now be required to develop stewardship plans for their own lands.

Ms. Roth said she feels S3550 is the most disturbing of all the bills. She noted a factual error in the bill that needs to be brought to the legislature's attention. The Commission does not review and approve forest stewardship plans on private lands. No Certificates of Filing are issued. If no municipal approvals are required or issued, there will be nothing for the Commission to review.

Ms. Roth said that she will produce a document that includes the concerns, comments and questions raised by Commissioners at today's meeting and forward it to the Governor's office. Commissioner Lloyd asked that the document be shared with all Committee members as well.

## **5. Solar Energy Facilities in the Pinelands Area**

Ms. Grogan made a brief presentation on current CMP solar energy facility regulations, issues raised in the implementation of those regulations and potential CMP amendments (*see Attachment A to these minutes*).

Chairman Lohbauer asked for Committee input on possible CMP amendments.

Commissioner Prickett asked if more time could be provided to review and submit potential support or objections on the proposed amendments. He said he is interested in discussing requiring solar facilities for future development and whether this something the Commission can or should do..

Chairman Lohbauer asked Director Grogan if she could send the list of possible amendments to Committee members for them to review and submit their support/objections/comments. The Committee will then continue the discussion at the May meeting.

## **6. Public comment**

Fred Akers of the Great Egg Harbor Watershed Association suggested the Committee work with the Pinelands Municipal Council and the League of Municipalities on the Forestry Stewardship Bill. He commented on the discussion of the importance of having the Climate Committee, he said at one time there was a Science Committee. It was a forum for science to be discussed and worked on with the Commission.

Rhyan Grech of Pinelands Preservation Alliance (PPA) said she agrees with Mr. Akers on the importance of this Committee. She commented on proposed CMP Amendments. She believes protecting and preserving the natural resources should come first. She recommended adopting changes that reflect the recommendations of the Kirkwood-Cohansey Aquifer study; updating stormwater requirements; incorporating changes to the Pinelands Development Credit programs to incentivize different types of development; updating the list of endangered and threatened plant species; and consideration of the Coastal Area Facility Review Act (CAFRA) overlap area.

### **Commission Comments**

Commissioner Prickett asked ED Wittenberg to download and forward to the Commissioners the NJDEP's recently released Climate Change Resilience Strategy.

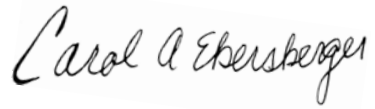
Commissioner Irick expressed his concern about horizontal directional drilling (HDD) and current CMP exemptions. He made a motion proposing that the Pinelands Climate Committee recommend to the full Commission that the exemptions at N.J.A.C. 7:50-4.1(a)5 and 6 be annulled, voided or repealed until such time as more information can be learned about HDD. Chairman Lohbauer seconded the motion. Commissioner Prickett stated that this will be a discussion at the P&I meeting next week, and he would prefer to address the matter at that time. Commissioner Irick withdrew his motion.

Commissioner Lloyd stated he agrees with Commissioner Irick's suggested motion to repeal the two exemptions.

Chairman Lohbauer moved the adjournment of the meeting. Commissioner Higginbotham seconded the motion and all agreed. The meeting adjourned at 12:03 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 light-colored background.

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Carol A. Ebersberger  
Business Specialist

Date: May 11, 2021

**From:** Alan Avery  
**Sent:** Monday, May 10, 2021 7:18 PM  
**To:** Grogan, Susan (PINELANDS)  
**Subject:** [EXTERNAL] RE: Solar facility presentation

No mandated solar.

Sent from [Mail](#) for Windows 10

**From:** Alan Avery  
**Sent:** Tuesday, May 11, 2021 5:59 PM  
**To:** Grogan, Susan (PINELANDS)  
**Subject:** [EXTERNAL] RE: Solar facility presentation

No dual use solar ag. No solar on pdc severed parcels. Ok with solar on resource extraction with no restoration obligation. Open to expanding this.

Sent from [Mail](#) for Windows 10

**From:** Jerry Irick  
**Sent:** Wednesday, April 28, 2021 1:24 PM  
**To:** Grogan, Susan (PINELANDS); Rick Prickett  
**Subject:** [EXTERNAL] Re: Solar facility presentation

## SOLAR COMMENTS

Hey there

Suggestion: only Ballast type solar fields be used where soil disturbance prohibited

## AG PRODUCTION SOLAR

No solar on high value ag soils and list the soil types DEPT of Ag could assist

10 Acres seems high based on average farm size in acres

Suggestion: Off site infrastructure should be limited to existing utility R O W no new R O W

## C M P AMENDMENTS

10 acres should be standard in Rural Development Zones but not in FA or APA zones

Uncapped landfills have not been capped due to \$\$\$ if solar is permitted on uncapped landfills they will never be capped therefore Money from ballast type solar on uncapped landfills should be dedicated and used to cap landfills only

No clearing of lands for solar only on cleared land and NO tree removal as that is counter productive

No requirement for solar on subdivisions of 5 lots or less

Solar panel use toxic products and heavy metals

How will these hazards be disposed

Guarantee to insure removal of panels at the end of useful life

Bonding or other financial arrangement to prevent declaration of bankrupt and another dump is created

Thank You for permitting my comments

Jerome H Irick

**From:** Mark Lohbauer  
**Sent:** Tuesday, May 11, 2021 3:55 PM  
**To:** Grogan, Susan (PINELANDS)  
**Cc:** Roth, Stacey (PINELANDS)  
**Subject:** [EXTERNAL] Re: Solar facility presentation

Susan, I have a few questions about the draft concepts:

- a) Does agricultural activity constitute “disturbance” of land for the purposes of this clause?:  
"Solar facilities as a principal use may be developed on any previously disturbed portions of a parcel"
- b) Is it presumed that we do allow solar on closed AND capped landfill facilities; if not, shouldn't we make that clear?  
"Allow on closed but uncapped landfills"
- c) The tree removal issue needed more definition. Mature trees have greater carbon sequestration value than young saplings. Any tree replacement requirement should be tied to carbon sequestration value, not a simple 1 for 1 tree replacement standard. Sequestration values vary by the type and the age of the tree. I favor a replacement standard that would seek to replace comparable sequestration value at the time of replacement. If an application for tree removal resulted in a present-day loss of 10 tons of CO2 capture/year, then the replacement planting should achieve that sequestration rate today, not at some point in the future.  
"Establish specific limitations on clearing and tree removal  
–Require installation on existing impervious surfaces (rooftops and parking lots) before allowing clearing for ground-mounted facilities  
–Require tree replacement"

**From:** Rick Prickett

**Sent:** Friday, April 23, 2021 8:57 AM

**To:** Grogan, Susan (PINELANDS)

**Subject:** [EXTERNAL] Re: Solar facility presentation

Hi Susan,

I am curious if an estimate could reasonably be made on how many kilowatts could be generated if solar arrays were installed on all the uncapped landfills in the Pinelands? I wonder if that amount of solar energy production would convince people to move forward with solar on uncapped landfills?

As long as staff would agree, I support solar arrays on uncapped landfills provided that pollution streams were identified and a percentage from solar energy proceeds were used to address pollution entering ecologically sensitive areas. Perhaps an uncapped landfill offset bank funded by the offsets could be established to fund remediation projects on uncapped landfills. I think the responsibility to cap a landfill should not be severed with the installation of solar arrays. I would like staff to have the latitude to determine if a solar facility was appropriate for an uncapped landfill using any criteria related to pollution, erosion or any other factor.

Thanks,

Rick Prickett

Sent from my iPhone