Disclaimer

These minutes reflect the actions taken by the Commission during its May 12, 2023 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 May18, 2023.

PINELANDS COMMISSION MEETING

MINUTES May 12, 2023

All participants were either in-person or present via Zoom conference and the meeting was livestreamed through YouTube: https://www.youtube.com/watch?v=Y3QB_Owga0Y

Commissioners Participating in the Meeting

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

Commissioners Absent

None.

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).

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

The Commission pledged allegiance to the Flag.

Minutes

Chair Matos presented the minutes from the Commission's April 14, 2023 meeting. Commissioner Irick moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes from the April 14, 2023 Commission meeting were adopted by a vote of 13 to 0

Remembering former Commissioner Robert C. Shinn, Jr.

Chair Matos introduced a resolution recognizing the great contributions of Bob Shinn, who passed away on May 5, 2023.

Commissioner Pikolycky made a motion expressing the Commission's Gratitude and Appreciation for the Late Robert C. Shinn, Jr., for His Extraordinary Service as a Founding Member of the New Jersey Pinelands Commission and His Contributions to the Pinelands. Commissioner Lloyd seconded the motion (See Resolution # PC4-23-16).

Chair Matos read the resolution into the record.

Several Commissioners shared their memories of Mr. Shinn, including his role in the development of the original Comprehensive Management Plan (CMP) and the many roles he undertook in state government, including his service as the Commissioner of the New Jersey Department of Environmental Protection (NJDEP).

All were in favor of the resolution.

Committee Reports

Chair Matos provided a summary of the April 28, 2023 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the March 31, 2023, Committee meeting.

The Committee was briefed on the Hexa Builders Redevelopment Plan in Monroe Township. The plan adopts a redevelopment plan for a 158-acre tract of land fronting the Black Horse Pike that is comprised of Regional Growth Area and Rural Development Area. The plan includes a mandatory Pinelands Development Credit (PDC) requirement for any nonresidential uses. A prospective developer is interested in constructing a warehouse on the Regional Growth Area portion of the site. Commissioners were generally in favor of the plan but expressed concerns about impacts to wetlands in the Rural Development Area portion of the tract. The Committee voted to recommend that the full Commission certify the ordinance at the May meeting.

The Committee discussed upcoming steps for the Black Run watershed management area changes and pilot program rule proposal. Although many of the Southern Medford/Evesham project's initial goals have been accomplished, the Commission itself must adopt CMP amendments to facilitate the Rural Development to Forest Area management area change.

Commissioner Lohbauer provided an update on the April 19, 2023 Climate Committee meeting.

Staff provided updates on various state and Pinelands office initiatives. Staff then made a presentation on its Pinelands management area boundary assessment methodology, including data layers to be used and potential actions that could be recommended. Finally, staff provided an overview of the CMP's current fire hazard mitigation standards and their implementation.

Commissioner Lohbauer said the Committee will hold its next meeting in July.

Executive Director's Report

ED Grogan provided information on the following matters:

- The capital fund grant was submitted to the New Jersey Historic Trust on April 18th. The Commission is seeking a grant of \$575,000 with matching funds to complete the majority of the work outlined in the Fenwick Manor preservation plan. A representative from the New Jersey Historic Trust performed a site visit of Fenwick Manor this past week. The Commission will receive notification on the grant in late September.
- A public hearing for the Kirkwood-Cohansey water management rules was held on May 3rd. Two comments were received at the hearing. The public comment period is open through June 2, 2023.
- Stafford Township Officials met with the Commission Chair to discuss a proposal similar to Pemberton Township's Lake Pemberton trails project. Stafford Township is interested in paving trails at an existing park, but wetlands buffers are present and will impact development, necessitating a Memorandum of Agreement. Stafford Township will deliver a presentation at the May 26th Policy and Implementation Committee meeting regarding the project.
- The Commission has retained outside labor counsel to facilitate upcoming contract negotiations.

- A revised Request for Quotations was issued for two new electric or hybrid field vehicles, after receiving no responses to the initial RFQ. Vehicle shopping will be the next step if the Commission does not receive any proposals.
- A budget resolution was created and submitted to the Office of Management and Budget (OMB) for an increased appropriation to fund the creation of a few new positions at the Commission.

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

- On May 1st, staff met with Tabernacle Township to discuss its plans to construct a new municipal building. The township is in negotiations to purchase a property and soon after will submit an application to the Commission.
- Staff is reviewing an application for a two-lot subdivision where approximately 182 acres of the parcel will be acquired by the New Jersey Conservation Foundation.
- Staff has received mitigation plans from the NJDEP, fulfilling a condition of the Commission's approval for its Forest Fire Fuel Break application along Oswego Road. The plans detail the proposed treatment of threatened and endangered (T&E) snake species research areas.

Director Horner noted that Ernest Deman, a Supervising Environmental Specialist with the Commission, contacted Burlington County after additional questions arose regarding the waste generated from an application to demolish a juvenile detention center in Pemberton Township.

Mr. Deman said the County plans to recycle all the materials associated with the demolition to the extent possible.

Paul Leakan, Communications Officer, said registration is open for the June 23rd Pinelands Summer Short Course. He noted that the event has been scheduled earlier this year to avoid the high temperatures of mid-summer.

ED Grogan reminded Commissioners of the approaching deadline to file Financial Disclosure Statements.

Public Development Projects and Other Permit Matters

Chair Matos introduced a resolution for the installation of a fire suppression system well at the Indian Mills Elementary school in Shamong Township.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1981-0462.007) (See Resolution # PC4-23-17). Commissioner Irick seconded the motion.

The resolution was adopted by a vote of 13 to 0.

Chair Matos introduced a resolution for the installation of an irrigation well at the Indian Mills Elementary school in Shamong Township.

Commissioner Avery made a motion Approving With Conditions an Application for Public Development (Application Number 1982-3256.011) (See Resolution # PC4-23-18). Commissioner Lohbauer seconded the motion.

Director Horner said that both of the wells were installed prior to the completion of an application with the Commission. He said it was a simple oversight.

The resolution was adopted by a vote of 13 to 0.

Chair Matos introduced a resolution for the construction of six exterior emergency stairway exits at the New Lisbon Developmental Center in Woodland Township.

Commissioner Pikolycky made a motion Approving With Conditions an Application for Public Development (Application Number 1986-0122.024) (See Resolution # PC4-23-19). Commissioner Lohbauer seconded the motion.

The resolution was adopted by a vote of 13 to 0.

Commissioner Pikolycky said he is the Mayor of Woodbine Borough and will recuse on the next matter. He left the room.

Chair Matos introduced a resolution for installation of a soil cap on the closed landfill in Woodbine Borough.

Commissioner Avery made a motion Approving With Conditions an Application for Public Development (Application Number 1986-0257.003) (See Resolution # PC4-23-20). Commissioner Asselta seconded the motion.

Director Horner said the parcel is approximately 115 acres, and the landfill portion covers the front half of the site (about 53 acres). The applicant is proposing to remove trees and cover the 53 acres with 18 inches of soil, topped with 6 inches of topsoil. He provided additional information related to wetlands and T&E animal species. An aerial from 2020 was displayed outlining the landfill site in blue (see attached). Also visible in the aerial and adjacent to the landfill is the Woodbine Municipal Airport.

Director Horner said soil was placed on the landfill periodically to cover waste. Over time, small depressions evolved and water collected in the depressions, creating areas that could support wetlands vegetation but are not considered a wetland by the Commission.

Director Horner said a barred owl was heard calling on the parcel but due to lack of suitable nesting trees, the parcel is not considered critical habitat.

Director Horner said multiple surveys were performed for the Northern pine snake, and that led to the request for supplemental visual surveys, at which time a Pinelands Commission staff member observed a Northern pine snake on the landfill site. A T&E survey for Northern pine snake was conducted at the adjacent Woodbine Municipal Airport. He said a Northern pine snake den and nest were found in the central portion of the airport and identified as critical habitat. A Northern pine snake was tracked in 2009, leading to a determination that the snake spent 90% of its time at the airport and 9.5 % on the landfill site. Additional T&E surveys were completed in 2022 and no Northern pine snakes were observed on the landfill site, although pine snakes are present in the area. Director Horner said it's the staff's opinion that the soil cap on the landfill will not have an irreversible, adverse impact on the habitat critical to the protection of the species.

Lastly, Director Horner said that the applicant has demonstrated that a permeable cap is suitable for the landfill. He said although there is a leachate plume associated with the Woodbine closed landfill, it does not pose an ecological risk because of its location in relationship to the wetlands on the parcel. Therefore, a soil cap is consistent with the landfill closure standards of the CMP.

Commissioner Asselta asked if there is a plan for the landfill once it's capped.

Director Horner said a solar energy facility will be installed. He said an application was completed and conditioned upon the landfill capping.

Commissioner Asselta asked if the solar was part of the Board of Public Utilities Community Solar program.

Director Horner said yes.

Commissioner Wallner asked if the clearing at the landfill would be done during a specific time of the year to protect the snake species.

Director Horner said it's not typical for the Commission to require a time-of-year restriction when a site has been determined not to contain critical habitat. The exception would be for forestry activities, where surveys are generally not required.

Commissioner Lohbauer asked if clearing will occur at the landfill site.

Director Horner said approximately 53 acres will be cleared to accommodate the soil cap.

Commissioner Asselta said he is familiar with the community solar program. He said it will be beneficial to the residents of Woodbine who are a both rural and underfunded community. He said it was the BPU's intention to place solar on places like closed landfills.

Staff confirmed for Commissioner Irick that a ballast technique would be used for the installation of the solar.

The resolution was adopted by a vote of 12 to 0.

Commissioner Pikolycky returned to the meeting.

Chair Matos introduced a resolution for the expansion of an existing school bus drop off area at an elementary school in Buena Vista Township

Commissioner Irick made a motion Approving With Conditions an Application for Public Development (Application Number 1991-1291.003) (See Resolution # PC4-23-21). Commissioner Pikolycky seconded the motion.

Director Horner said this application will realign an existing u-shaped driveway to a school situated along Route 40. The current design of the drive has become a traffic hazard. Director Horner displayed an aerial and two additional photographs depicting the drainage ditch between the two driveways that is considered a wetland (see attached).

Commissioner Lloyd asked if the paved driveway would be permeable or impermeable.

Director Horner said impermeable. He added that two stormwater management basins will be installed, and the applicant did qualify to reduce the buffer to wetlands.

The resolution was adopted by a vote of 13 to 0.

Chair Matos said this resolution was held from the April Commission meeting due to questions raised by Commissioners. She said South Toms River Borough is proposing two subdivisions, a building addition to an existing public works garage and the expansion of an existing gravel parking lot.

Commissioner Mauriello said that he works for a firm that is interested in developing on this parcel. He said he will recuse himself from this matter and left the room.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1991-1291.003) (See Resolution # PC4-23-22). Commissioner Pikolycky seconded the motion.

Director Horner displayed a plan showing the new lots created by the subdivision. He said a portion of the lot is restricted by a Green Acres easement that prohibits certain development from occurring. He said the cross-hatched section of lot 1.06 is restricted by the Green Acres program. He said the public works garage and parking area are located on new lot 1.08.

Commissioner Lettman asked if Green Acres is aware of the new lot number of the area that is restricted so it can be properly updated on the State's Recreation and Open Space Inventory.

Director Horner confirmed that on May 11, 2023, an email was received from Green Acres in which they acknowledge the lot number change and confirm that the map accurately depicts the portion of the parcel that is subject of the restriction.

The resolution was adopted by a vote of 12 to 0.

Commissioner Mauriello returned to the meeting.

Planning Matters

Chair Matos introduced a resolution related to Monroe Township's redevelopment plan.

Commissioner Lohbauer made a motion Issuing an Order to Certify Monroe Township Ordinance O:04-2023, Adopting the Hexa Builders Redevelopment Plan (See Resolution # PC4-23-23). Commissioner Pikolycky seconded the motion.

ED Grogan displayed a map of the newly established boundary of the redevelopment area outlined in red (See attached). She said the majority of the redevelopment area lies in the Regional Growth Area (RGA) and a small portion in the back of the parcel is located in the Rural Development Area (RDA). She said the redevelopment area fronts on the Black Horse Pike (Route 322). She said Monroe Township adopted the redevelopment plan to facilitate non-residential development in the RGA portion of the redevelopment area.

ED Grogan said the current zoning, adopted by the Township approximately 15 years ago, permits high-density residential development and community commercial uses. She said because that plan has not come to fruition, the Township decided to look at other options for the area, in particular, warehousing. The Township worked with a redeveloper to produce a concept plan. She said staff had concerns similar to the Waterford Township's redevelopment plan that the Commission certified in April. She said staff evaluated the following factors: infrastructure availability, environmental conditions and the Township's ability to accommodate its mandatory residential development obligation elsewhere in its RGA. She added that staff also had to ensure that the redevelopment plan would not have a negative impact on the PDC Program.

ED Grogan strongly emphasized that no development will occur in the RDA and can't occur because of wetlands and buffers. She said any development associated with the redevelopment plan will occur in the uplands portion of the RGA, with proper stormwater management facilities. She explained the current PDC calculation and the PDC requirement for the redevelopment area. She said one right (¼ PDC) will need to be purchased and redeemed for every 18,000 square foot of gross nonresidential floor area. She said based on the concept plan the PDC requirement will be approximately 91 rights.

ED Grogan said Commissioner Irick asked about the change in impervious coverage at the April P&I Committee meeting. She said information was added to the report and the permitted amount of impervious coverage will actually be reduced under the redevelopment plan.

Commissioner Asselta said he was concerned about the placement of the warehouse on Route 322 because of the existing traffic and commercial development in the vicinity. He said warehouses belong in industrial parks.

ED Grogan said she understands the concerns raised by Commissioner Asselta. She said traffic impacts will be addressed by the Monroe Township Planning Board.

Commissioner Asselta asked if Monroe Township held a public hearing on the ordinance.

ED Grogan said that the Township did hold a public hearing and the Commission did as well and received a few comments, mostly objecting to the loss of trees.

Commissioner Lettman asked if the Commission had ever approved a Redevelopment Plan in the RDA.

ED Grogan confirmed that the Commission has approved Redevelopment Plans in the RDA before and even in an Infill Area located in the Preservation Area District.

Commissioner Lettman said she cannot support the redevelopment plan because she feels the wetlands located in the Rural Development Area will be negatively impacted.

Commissioner Avery said the New Jersey Department of Transportation (DOT) will need to issue a state access permit and will review the ingress and egress.

Commissioner Mauriello said the DOT will require road and signal improvements once it reviews the application and they will base that on the type of warehouse being proposed.

The resolution was adopted by a vote of 9 to 2. Commissioner Asselta and Commissioner Irick both abstained from the vote. Commissioner Lettman and Commissioner Wallner each voted no.

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

No one from the public provided comment.

Ordinances Not Requiring Commission Action

ED Grogan said staff reviewed 18 ordinances in the past month and 16 were in response to the Commission's new stormwater management rules.

General Public Comment

Heidi Yeh of the Pinelands Preservation Alliance said she appreciated the conversation on warehouses. She said there are instances in which a town passes an ordinance and residents are not aware of it because of public notice issues. She said she has seen this happen in Monroe Township before but not in the Pinelands Area.

Michelle Forman of Pemberton Township spoke about the influx of warehouses being constructed in Pemberton Township. She said the buffer and screening between existing homes and warehouses is inadequate. She added that residents in Pemberton and neighboring Eastampton Township are unaware that more warehouses are proposed.

Adjournment

Commissioner Irick moved to adjourn the meeting. Commissioner Pikolycky seconded the motion. The Commission agreed to adjourn at 10:58 a.m.

Certified as true and correct:

Jessica Noble

Executive Assistant

Date: May 18, 2023











