

Disclaimer

These minutes reflect the actions taken by the Commission during its February 14, 2025 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 February 21, 2025.

PINELANDS COMMISSION MEETING

MINUTES

February 14, 2025

All participants were either in-person or present via Zoom conference and the meeting was livestreamed through YouTube: <https://www.youtube.com/watch?v=5rp6JIVvQM8>

Commissioners Participating in the Meeting

Nicholas Asselta, Alan W. Avery Jr., Deborah Buzby-Cope, John Holroyd, Jerome H. Irick, Mark Lohbauer, Mark Mauriello, William Pikolycky, Jessica Rittler Sanchez, Douglas Wallner and Chair Laura E. Matos. Also participating were Executive Director Susan R. Grogan, Deputy Attorney General (DAG) Jay Stypinski and Governor's Authorities Unit representative Alexis Franklin.

Commissioners Absent

Theresa Lettman, Jonathan Meade & Ryck Signor

Call to Order

Chair Matos called the meeting to order at 9:31 a.m.

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

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

The Commission pledged allegiance to the Flag.

Minutes

Chair Matos presented the minutes from the Commission's January 10, 2025 meeting. Commissioner Pikolycky moved the adoption of the minutes. Commissioner Irick seconded the motion.

The minutes from the January 10, 2025 Commission meeting were adopted by a vote of 11 to 0.

Resolution for former Commissioner Dan Christy

Chair Matos requested a motion for recognition of former Commissioner Dan Christy.

Commissioner Irick made a motion Expressing the Commission's Appreciation to Dan Christy for His Service as a Member of the Commission From February 20, 2019 to January 28, 2025. Commissioner Pikolycky seconded the motion.

Paul Leakan, Communications Officer, displayed a photo of the gift that will be given to Dan Christy. He said the canvas is of a photograph from the Piney Hollow Preservation Area in the Pinelands Area of Franklin Township in Gloucester County.

The resolution was adopted by a vote of 11 to 0.

Committee Reports

Vice Chair Avery provided a summary of the January 31, 2025 Policy and Implementation Committee meeting:

The Committee approved the minutes of the November 22, 2024, meeting.

The Committee reviewed and discussed the Executive Director's report on a Barnegat Township ordinance amending the C-N Zone West of the Parkway. Committee members moved to recommend certification of Ordinance 2024-32 to the full Commission.

The Committee also reviewed and discussed the Executive Director's report on Berlin Township's Master Plan Reexamination Report and amendment and an ordinance amending the zoning map and C-3 zoning district regulations. Committee members moved to recommend certification to the full Commission.

Executive Director Grogan provided a presentation on the Preliminary State Plan. The presentation reviewed the Cross-Acceptance Process, new planning goals including climate change and equity, and the overall impact of the State Plan to the Pinelands Area.

Staff also summarized the municipal conformance activities for 2024.

The Committee members heard public comments offering support for consideration of climate change topics and suggesting student internship involvement.

Executive Director's Report

ED Grogan provided information on the following matters:

- Commission staff formally requested the Department of Treasury to cancel its procurement process for a historic architect to manage the Fenwick Manor Rehabilitation project, which enabled the Commission to move forward with its own Request for Proposal (RFP). The RFP was posted, and the Commission hosted an optional site visit on February 13th for interested architect firms to see the inside of Fenwick Manor. Bids are due March 5th. Staff also requested additional funding from the Governor's office to help cover the increase in material costs caused by the year-long delay.
- The Commission's annual National Park Service (NPS) funding of \$298,000 was frozen, then removed but thankfully has been restored. The funding is used for the Long-Term Economic and Environmental Monitoring programs conducted by staff.
- An orientation session for the two new Commissioners was held on February 5th. It's anticipated that Ryck Signor will be sworn in at the Commission's March 14th meeting.
- Claire Osei was introduced, she was recently hired and will be working in the Commission's Land Use Programs Office.

ED Grogan provided an update on the Black Run Rule proposal. She noted that the rule proposal includes a series of other important amendments to the Comprehensive Management Plan (CMP). Those amendments include expiration dates for old waivers and expiration dates for Certificates of Filing (CF) to ensure the Commission's environmental standards are met and will establish whether an applicant needs to submit a new application for development. She said presently, CF's do not expire. The rule proposal will also include updates to Regional Growth Area densities, the Pinelands Development Credit program, and fee changes. She noted that the rule proposal contains multiple amendments and is part of the reason why it is taking so much time to prepare. She added that she is working on the impact statements related to job production, agriculture and housing production, which are required by the state rulemaking statute. An enormous amount of writing and research has done, and it will be shared with the Governor's proposed rules office.

Commissioner Wallner asked how long the rule process will take and what it means for the development application.

ED Grogan said she cannot offer a time frame on how long the proposed rules office will take to review the proposal. She explained the process the Commission must undertake once the Governor's proposed rules office completes its review, including adoption of a resolution authorizing the rule proposal. From there, she said the proposal will be sent to the Office of Administrative Law (OAL) for publication in the NJ Register, and a 60-day public comment period will commence. She said the process can take as long as nine months.

ED Grogan noted that there is no application for development at this time; rather, the applicant has applied for a wetlands Letter of Interpretation (LOI) on approximately 770 acres that will require extensive field work. She said the wetlands LOI will determine the development potential of the parcel and the extent of wetlands.

April Field, Chief Permitting Officer, said the Commission staff has two opportunities to review private development applications; one of which occurs when an application is determined to be complete, resulting in issuance of a CF, and again when permits and approvals from the County and municipality are submitted. She reiterated that a CF is not an approval but a document that allows an applicant to proceed to the County or municipality for permits and approvals.

Ms. Field noted two development applications in the January Management report that highlight questions that staff are faced with daily and demonstrate the benefit of why a CF should have an expiration date.

- In 2023, staff issued a CF for a residential apartment building to be redeveloped in a former textile manufacturing facility in Hamilton Township. Based on a New Jersey Department of Environmental (NJDEP) requirement, the applicant recently informed the Commission that they must either demolish or reconfigure the project. The applicant asked staff if the current CF can be used or if a new or amended CF must be issued.
- In 2003, staff issued a CF for an 82-unit residential subdivision in Monroe Township. After 20+ years and subsequent municipal review, the project has not yet been constructed and the applicant must meet the Commission's 2022 stormwater management amendments.

Commissioner Irick asked how long a CF would be valid under the proposed amendments.

ED Grogan said CFs would expire after five years, unless they are used to obtain local approvals that are submitted to the Commission, reviewed and allowed to take effect. After adoption of the CMP amendments, CFs will specify an expiration date.

Commissioner Avery said some of the Commission's stormwater rules are tied to NJDEP's rules. He wanted to be sure that applicants who proceed to get local permits would not be penalized, due to constant rule amendments.

Commissioner Mauriello agreed with Commissioner Avery's comments on this matter.

Gina Berg, Director of Land Use Programs, provided an update on the following Land Use matters:

- Staff met with NJDEP to discuss Pinelands Golf Club's requested increase to its water allocation permit. The golf club will need to return to the Commission to determine how its water allocation permit will be consistent with the CMP's water management rules adopted in 2023. Staff also met with the Bureau of Water Management to discuss ways in which there could be better coordination between the two agencies with reviewing water

allocations.

- The 3rd Annual Land Preservation Summit is tentatively scheduled for April 3rd. This year's theme will be accessible trails. Staff will be reaching out to municipalities to include them in the discussion of accessible trails.
- Staff continue to make progress on rule amendments for Right-of-Way (ROW) vegetation maintenance standards. The ROW pilot program would be repealed following the adoption of the rule. A stakeholder meeting has been scheduled and a representative from Assemblymen Alex Sauickie's office will be attending. Assemblyman Sauickie sponsored a bill for regulating ROW maintenance.
- A recent PDC Letter of Interpretation allocated 333 rights to a very large parcel in Washington Township in Burlington County.

Commissioner Pikolycky said that he participated in Governor Murphy's roundtable on February 13th regarding actions to prevent wildfires. He suggested that the Fire Forest Service be included in the discussion about accessible trails. He said the forest service stressed the importance of clearing trails and maintaining fire break lines to mitigate fire.

Chair Matos suggested that Pinelands Legislative offices be invited to the Land Preservation Summit so they can share the information with Pinelands municipalities who may not be able to attend.

Commissioner Avery asked if at the past Summits, land preservation partners raised concern about imposing the Pinelands Conservation Fund (PCF) deed restriction on a property and limiting the use of the property.

Ms. Berg and ED Grogan both agreed that the PCF deed restriction was never raised as a concern by Summit attendees.

Commissioner Avery noted that grant funding would not be worthwhile in a situation where a partner would like to see active recreation because the PCF deed restriction would not allow it.

Commissioner Rittler Sanchez asked if the NJDEP provided details on its policy for HUCs that are currently stressed during staff's meeting with the NJDEP regarding the water allocation increase at the golf course. She also asked if staff or the NJDEP conducts the modeling associated with water allocation increases in the Kirkwood-Cohansey aquifer.

Ms. Berg said the purpose of the meeting with the NJDEP was to ensure coordination on water allocation increases. She said the NJDEP staff advised the Commission that they are currently in the process of revising their rules to specifically identify the Pinelands Commission's role with water allocation increases in the Pinelands Area. She added that following the adoption of the Water Management rules, the Commission contracted with the US Geological Survey for modeling work. She said neither Commission staff nor NJDEP staff perform any modeling.

Commissioner Lohbauer ended his participation in the meeting at 10:16 a.m.

Stacey Roth, Chief, Legal and Legislative Affairs, provided an update on the following litigation matters, all of which are noted in the January Management Report:

- The Court granted a motion to the Pinelands Preservation Alliance (PPA) to participate in the Clayton challenge of the water management rule as an amicus. The Clayton Sand Company opposed PPA's brief. At this point, the matter may be decided on the papers and the timeframe will be based on the court's schedule.
- An applicant who received a CF for a 13-lot subdivision in Woodland Township in 2007 has filed in Chancery Court against the Commission. The application is currently called up for review because it has not met the Commission's Threatened and Endangered species standards. The applicant has filed in the Chancery Division rather than pursuing administrative remedies. The Commission will be filing a motion.
- The Attorney General's office filed a complaint in Superior Court related to the Artistic Materials matter in early January. Artistic Materials recently filed its answer.
- Staff is working with the Attorney General's Office on the matter where a property owner filed an appeal in the Appellate Division of a staff guidance letter. The correct process would have been to file the matter in the Office of Administrative Law upon the issuance of a final agency action (in this case, a Letter of Interpretation). The matter involves a resource extraction operation where accessory development is not permitted in the Pinelands management area.

Brad Lanute, Chief Planner, said staff will deliver a presentation on affordable housing at the February 28th P&I Committee meeting.

Paul Leakan, Communications Officer, provided a summary of the Commission's field trip with representatives from the United Nations Educational, Scientific and Cultural Organization. The group toured two farms, one in the Pinelands Area and one just outside the Pinelands Area at PPA's offices. He also reminded Commissioners that they can attend the annual Short Course free of charge, noting that the event will be held on Saturday, March 8th at Stockton University. He also noted that the Commission's 2024 Annual Report has been drafted and will be presented at the March Commission meeting.

Public Development Projects and Other Permit Matters

Chair Matos introduced a resolution approving the construction of a potable water storage tank in Barnegat Township and road improvements in the City of Estell Manor.

Commissioner Pikolycky made a motion Approving With Conditions Applications for Public Development (Application Numbers 1996-1133.006 & 2024-0086.001) (See Resolution # PC4-25-03). Commissioner Avery seconded the motion.

Ernest Deman, Regulatory Specialist, said Barnegat Township is proposing a 144-foot tall, elevated storage tank to provide improved water supply to the western portion of Barnegat Township. He said it will be located in a Regional Growth Area and adjacent to an existing residential subdivision.

He said Estell Manor is proposing to pave two separate portions of road that are currently gravel. The goal is to improve safety and reduce road maintenance.

Commissioner Rittler Sanchez asked if the potable water storage tank was a new well or if it is for pressure and storage.

Mr. Deman confirmed that the water storage tank is for pressure and storage.

The resolution was adopted by a vote of 10 to 0.

Chair Matos introduced a resolution approving the construction of a replacement sanitary sewer pumping station at Stockton University's Galloway campus.

Commissioner Irick made a motion Approving With Conditions an Application for Public Development (Application Number 1981-1833.082) (See Resolution # PC4-25-04). Commissioner Asselta seconded the motion.

Mr. Deman said this is a replacement sewer pumping station and will be installed adjacent to the existing station on a maintained grass road shoulder. He said this application has been waiting to be acted on but was held up due to a deed of conservation restriction. He said as of this week, Stockton University has provided an amended deed restriction to the county for recording. He noted that this project is located in a Rural Development Area, and the existing sewer pumping station pre-existed the Commission's rules. He said this application meets the standard for an expansion of a non-confirming use.

The resolution was adopted by a vote of 10 to 0.

Planning Matters

Chair Matos introduced a resolution certifying a Barnegat Township ordinance.

Commissioner Avery made a motion Issuing an Order to Certify Ordinance 2024-32, amending Chapter 55 (Land Use) of the Code of Barnegat Township (See Resolution # PC4-25-05). Commissioner Asselta seconded the motion.

Mr. Lanute said this Ordinance amends the Neighborhood Commercial Zone, west of the Garden State Parkway (C-N Zone West) in the Regional Growth Area. He said in the past few years the C-N Zone West has seen a number of ordinance changes. He said Ordinance 2024-32 seeks to blend the existing standards to allow for a mixed-use development with a Continuing Care Retirement Community (CCRC) component.

He said the area is limited to within 1,000 feet of the parkway. The only eligible parcel is approximately 22.5 acres and consists of six contiguous lots in common ownership (displayed in yellow on the map).

He said the maximum density is 17 units per acre and PDCs will be required for 25% of multiple family apartments and 20% of CCRC independent living and assisted living units. He said the certification of this ordinance will result in a potential reduction of 68 units and an increase of three PDC rights.

The resolution was adopted by a vote of 10 to 0.

Chair Matos introduced a resolution to certify Berlin Township's 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15

Commissioner Pikolycky made a motion Issuing an Order to Certify Berlin Township's 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15, amending Chapter 340 (Zoning) of the Code of Berlin Township (See Resolution # PC4-25-06). Commissioner Asselta seconded the motion.

Mr. Lanute said this Ordinance recommends a number of changes to the zoning boundary and permitted uses in the C-3 Zone. The zoning map amendment, if certified, would rezone 22.5 acres currently in the C-2RD Zone to the C-3 Zone. The rezoning would also change the management area from a Rural Development Area to a Regional Growth Area.

He said the C-3 Zone was established in the 1990s and will be updated to include various commercial uses. He said the C-3 Zone would conditionally permit CCRCs on lots that are at least 10 acres size and have a maximum residential density of 18 units per acre. He said PDCs are required for 20% of the independent living units and assisted living units. The change in residential zoning capacity is 0 units to 441 units and an increase in PDC use by 80 rights based on CCRC use.

He concluded by noting that PDCs are required at a rate of 1 right per acre developed for non-residential uses, including associated improvements. He said this serves as an offsetting measure for the management area change because there wasn't an opportunity for downzoning or redesignation of other areas of the township.

The resolution was adopted by a vote of 10 to 0.

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

Mr. Deman said there are four Public Development applications up for comment:

- Construction of a NJDEP maintenance building in Jackson Township;
- Widening of the Garden State Parkway (GSP) from three to four lanes for 2.9 miles in South Toms River Borough. Only ½ mile portion of the GSP is in the Pinelands Area;

- Construction of a paved driveway and vehicle storage area at an existing office building proposed by the NJDEP at the old Greenbank school in Washington Township; and
- Three lot resubdivision in Egg Harbor City.

Stephen Elliot of the Pinelands Preservation Alliance provided comment on the GSP project (Application No. 1997-0257.021). He said PPA was able to review the file. He acknowledged that the applicant overdesigned their stormwater management measures, consisting mostly of retention basins with manufactured treatment devices, which does not negate the permanent impacts to wetlands transition areas. He said PPA advocates for green infrastructure in all cases unless it's not feasible. He said he hopes the Commission will apply its wetlands and stormwater regulations rigidly.

General Public Comment

John Volpa of Evesham Township, NJ, described the potential impacts that the development of 256 single family dwellings could have should they be constructed in the headwaters of the Black Run. He said septic systems, wells, traffic and pesticides associated with residential development will have a negative effect on headwaters of the Black Run, T&E species and surrounding residents. He asked the Commission to protect the headwaters of the Black Run. See attached comments.

Fred Akers of the Great Egg Harbor Watershed Association thanked the Commission for their efforts to protect groundwater. He commended Mr. Lanute's detailed Finding of Facts in the Berlin Township report. He said he has been working with the NJDEP and the Department of Transportation to apply dredge materials from navigation channels to eroded coastal marsh lands in portions of the Coastal Area Facility Review Act (CAFRA) in an attempt save the marshes before they become water. He noted a loophole in which private development that involves dredging does not have to provide a beneficial reuse of the material.

Elizabeth Velasquez of Voorhees, NJ, urged the Commission to rezone the Black Run watershed to a Forest Area. She said this area is a sanctuary, and a housing development will destroy this pristine area.

Dr. Amy Golden of Voorhees, NJ, outlined a timeline beginning on April 2023 when she stated that she began attending Pinelands Commission meetings to express concern that development on private property in the vicinity of the Black Run watershed was forthcoming due to land surveys and T&E species studies being conducted. She said the Executive Director has continually promised that the Black Run rule proposal was almost complete and ready to be submitted to the Governor's office and delays were associated with staffing concerns and other Commission priorities. She asked that staff work with urgency to complete the Black Run rule proposal.

Stephen Elliot of PPA stated that he serves on other Boards and with other land stewards. He said he leads educational opportunities for local middle school children. He said he is alarmed about the delays with the Black Run Rule proposal and questioned why the Commission has not acted with urgency on a CMP amendment that is not new. He said the Black Run Preserve, a

Pinelands haven which has been showcased in the Commission's annual calendar, is at risk from upstream development. He suggested that local approvals be required for water allocation applications, especially in extremely stressed watersheds.

Carolyn Gallagher of Voorhees, NJ, said she is concerned about the potential for development on the private property situated next to the Black Run Preserve. She said this development will not serve the public. She said trees improve air quality and if the trees are destroyed, there will be an impact. She said protection of the watershed is crucial. She said the development of more homes will have a negative effect on the area, which is already experiencing a severe drought. She raised concern about additional traffic on surrounding roads.

Jason Howell of PPA said the main goal of everyone who attends these meetings is protect the Pinelands ecosystem and resources for the people that live in the Pinelands Area and those that travel here. He asked the Commission to "go easy" on the applicant proposing to reuse a portion of the former Cotton Mill textile building for residential units in Mays Landing. He said this is a proper redevelopment project. He said he is opposed to artificial turf because it is toxic, bad for the health of children and bad for the environment. He suggested that the Commission impose a moratorium on artificial turf and require the use of real native Pinelands turf. He said the Black Run Preserve is one of the most important properties in the Pinelands and said it's our duty to protect it.

Heidi Yeh of PPA suggested that the Commission's completeness document, Certificate of Filing (CF), be renamed. She said the current name is vague and causes confusion. She suggested renaming a CF to "preliminary application."

Adjournment

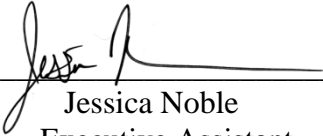
Commissioner Avery suggested that if the public does not want to see development near the Black Run Preserve, then the property will need to be publicly owned. He said the Commission cannot legally restrict development from occurring, noting that it must provide a beneficial use to property owners. He suggested reaching out to Burlington County, NJDEP Green Acres or nonprofit organizations interested in land preservation. He said preservation cannot be done by regulation.

ED Grogan noted that the Commission has money to contribute to the purchase and preservation of the property.

Commissioner Wallner said attempts to purchase the property have been on going for years, and the goal now is to limit development potential.

Commissioner Pikolycky moved to adjourn the meeting. Commissioner Irick seconded the motion. The Commission agreed to adjourn at 11:08 a.m.

Certified as true and correct:



Jessica Noble
Executive Assistant

Date: February 21, 2025

Pinelands Commission Meeting 2-14-25

John Volpa, Founder of the Black Run Preserve, speaking as a private citizen and resident of Evesham Township.

Certain recent events concerning the Headwaters of the Black Run Preserve got me thinking about what it would actually mean to build 256 houses with wells and septic systems in the approximately 728 acres identified by the 2024 Evesham Open Space and Recreation Plan as the *Evesham Headwaters*.

The property runs north and south along the west side of Kettle Run Road, the wetlands that feed the two Black Run streams are in the section flowing north, creating the southwest branch of the Rancocas Creek, which at this point the streams are class 1.

An upland ridge running basically east and west bisects the Headwaters property and the Aerohaven portion of the BRP. Anything built north of this ridge would negatively affect water quality, which I'm sure the PC is well aware of. It's obvious that no houses should ever be constructed in this protected area. The southern side of the ridge is the only logical location for development. The same ridge crosses the Aerohaven section enabling the Evesham MUA to construct new wastewater retention basins in 2011, thus decommissioning the original basins in the BRP in an effort to protect its pristine waters.

So, that means 256 houses would have to be constructed in the southern section of the Headwaters property, which is the Kettle Run stream subwatershed, as is the Marlton Lakes community. It's not difficult to imagine each new house having two cars which means adding 500+ cars onto the winding two lane Kettle Run Road. In 1999 a traffic study was conducted for the Aerohaven area when an ill conceived plan to build a sports complex with parking for 900 vehicles, was considered. Twenty-six years have passed since that study was conducted and the natural increase of traffic on the Kettle Run Road are easy to see, plus 500 more cars may not be the PC's realm of responsibility, that would be Evesham Township.

What if we consider what many Pine Barrens homeowners do once they have a Certificate of Occupancy; they pave the stone driveway that was required, cut down the trees, plant sod on sand then apply mass quantities of fertilizer, herbicides, pesticides, lime, and regular irrigation in order to keep sod alive instead of a forest. This mixture of chemicals runs off or enters the aquifer.

Consider what 256 wells could do to the Kettle Run stream hydrology over decades; especially if those wells pulled from the upper and shallow aquifer, the Kirkwood-Cohansey, which is the life-blood of the Pine Barrens ecosystem. The PC may recall that the federally endangered swamp pink calls the Kettle Run stream and Marlton Lakes its habitat which was once threatened with overdraw by the Berlin Well.

Considering the precarious nature of today's climate and being in a drought, how much more stress can the local flora and fauna endure? Or what if those new homeowners drill deeper, into the Mount Laurel Aquifer, which municipal wells are also tapped into; along with the oldest and deepest aquifer the PRM. Those two aquifers have been part of a, *borrow from Peter to pay Paul system* for quite awhile. How much more stress can they take?

Imagining the potential impact of 256 houses on the land and aquifers plus increased traffic affecting public safety are only three immediate issues that come to mind if the upland area of the Evesham Headwaters were ever developed. Therefore, please work to create a path to protect the whole Headwaters property keeping the Black Run watershed pristine enabling it to become part of the BRP.