

Disclaimer

These minutes reflect the actions taken by the Commission during its June 14, 2024 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 June 20, 2024.

PINELANDS COMMISSION MEETING

MINUTES
June 14, 2024

All participants were either in-person or present via Zoom conference and the meeting was livestreamed through YouTube: <https://www.youtube.com/watch?v=IzLxbSam6Ss>

Commissioners Participating in the Meeting

Nicholas Asselta, Alan W. Avery Jr., 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

Dan Christy, Theresa Lettman & Jonathan Meade.

Call to Order

Chair Matos called the meeting to order at 9:32 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. Ten Commissioners participated in the meeting.

The Commission pledged allegiance to the Flag.

Tribute to Albert Horner

Chair Matos said she noted the passing of Al Horner at the May Policy & Implementation Committee meeting. She said today Paul Leakan has put together a slideshow of some of Al's beautiful photography and will share briefly about his advocacy.

Mr. Leakan said Mr. Horner graciously donated high quality photographs for the exhibit center and donated 17 framed photographs of Pinelands scenery after his display at the State Museum was finished. Today those photos hang throughout the Commission's offices. Mr. Horner's goal was to create a greater appreciation of the Pinelands through his photography (slides are attached).

Commissioner Lohbauer said he was deeply saddened to hear of Mr. Horner's death. He said he was a champion for the Pinelands and his photography has inspired many people to explore and appreciate the Pinelands.

Minutes

Chair Matos presented the minutes from the closed session portion of the Commission's March 8, 2024 meeting. Commissioner Pikolycky moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The closed session minutes from the March 8, 2024 Commission meeting were adopted by a vote of 8 to 0. Commissioner Holroyd and Commissioner Mauriello abstained from the vote.

Chair Matos presented the minutes from the Commission's May 10, 2024 meeting. Commissioner Irick moved the adoption of the minutes. Commissioner Asselta seconded the motion.

The minutes from the May 10, 2024 Commission meeting were adopted by a vote of 10 to 0.

Committee Reports

Chair Matos provided a summary of the May 31, 2024 Policy and Implementation Committee meeting:

The Committee approved the minutes of the April 26, 2024 meeting.

The Committee heard and discussed a presentation from Legal and Legislative Affairs Chief, Stacey Roth, on the then pending Open Public Records Act (OPRA) Legislation. Ms. Roth outlined the anticipated changes and the potential impact on the Commission's processes and records custodians. Executive Director Susan R. Grogan stated that the proposed bill provides for potential grant funding to public agencies to help promote public access to records.

The Committee received a presentation from Chief Planner, Brad Lanute, providing an overview of the New Jersey Department of Environmental Protection (NJDEP) Model Tree Removal Ordinance and the effect of the required adoption on Pinelands municipalities. Mr. Lanute said the Land Use Programs Office will be reviewing municipal ordinances to ensure consistency with Pinelands Comprehensive Management Plan (CMP) regulations and offer best practices suggestions regarding criteria.

The Committee also received a presentation from Director of Land Use Programs, Gina Berg, regarding the Long-term Economic Monitoring Work Plan for the National Park Service Task Agreement. Director Berg reviewed the proposed projects and their anticipated schedules and reporting.

Commissioner Irick expressed concerns regarding the Model Tree Removal Ordinance. He shared written comments with staff. He said the ordinance does not mention certain activities being exempt from review. He said the lack of exemptions in the model ordinance could result in negative impact on farmers, solar installation, cemeteries and cell towers. He suggested that the Commission provide guidance to its municipalities to ensure more uniformity.

Executive Director's Report

ED Grogan provided information on the following matters:

- The Land Use programs office is closely tracking the Model Tree Removal Ordinances that Pinelands municipalities have submitted. Unfortunately, at this stage, the NJDEP is encouraging towns to adopt the ordinance as quickly as possible, which does not leave much time to alter or modify the ordinance. The model ordinance requires that a tree survey be performed prior to development and replanting must occur. There is an extra cost associated with requirements in the ordinance and additional work for towns that are already understaffed. The ordinance is vague, and staff members hope to meet with NJDEP staff in order to receive clarification on the matter.

Commissioner Mauriello said he hopes that the process can be simple without becoming a burden for applicants and towns to implement.

ED Grogan said staff wants to ensure that whatever permitting process the town chooses is clear and straightforward.

- Two new staff members were introduced to the Commission. Lori Fridell joined the Land Use Programs office in May, and Morgan Foley joined the Information Systems office in June. Recruitment efforts continue to fill two vacancies.
- The Governor signed the OPRA bill, which will change how state agencies administer requests for public records. The Department of Community Affairs will allocate funding for scanning documents and working to make documents available electronically.

- The NJDEP has released its Resilient Environments and Landscapes (REAL) rule proposal. The proposal is very extensive and is almost 1,000 pages. It includes amendments to water quality, flood hazard, freshwater wetlands and stormwater. The rule proposal will most likely require action by the Commission since the CMP adopts NJDEP stormwater management rules by reference. The REAL rules also propose standards and procedures related to Horizontal Directional Drilling (HDD). The NJDEP held four webinars reviewing different topics of the rule proposal during the month of May that Commission staff members attended. The NJDEP will provide a 90-day public comment period and three scheduled public hearings. Briefings on the rule proposal will be provided to Committees.
- Staff continues to coordinate with the Division of Property Management and Construction and the NJ Historic Trust regarding the scope of work for the rehabilitation of Fenwick Manor.
- The Commission held its municipal training session at Stockton University's Kramer Hall in Hammonton. The training session was tailored to municipal zoning officers, construction code officials and other municipal representatives who work with Commission staff on a daily basis. Staff conducted presentations on the application process, Commission regulatory requirements and commonly asked questions to approximately 70 participants. A link to the presentations can be found here: <https://www.nj.gov/pinelands/home/presentations/Training%20Session%20Presentation%20complete.pdf>

Commissioner Wallner asked if a written report was available for the staff site inspection at the Black Run Preserve that was noted in the May Management Report.

ED Grogan said there is no report. She said a Commission staff member met with Evesham Township employees on-site to get a better understanding of the trail proposal and exact locations.

Chuck Horner, Director of Regulatory Programs, provided information on two types of development that are presenting a challenge for staff: solar facilities on landfills and communications towers.

- Pemberton Township is proposing to install a soil cap on a former landfill located along the southside of Route 70 to facilitate future development of a solar facility. The landfill was not active as of 1981, so based on the CMP's regulation for landfill closure, it does not require an impermeable cap. There are Threatened and Endangered (T&E) animal species present at the landfill. Staff advised the applicant of the need to pursue a compelling public need waiver.
- Ocean Township is proposing to place a solar facility on its previously capped landfill. The presence of T&E species has been documented at the Ocean Township landfill as well.

Director Horner said the Commission has a comprehensive wireless plan that designates the placement of communications facilities in the Pinelands Area. He said communication facilities exceeding 35 feet in height are permitted in Regional Growth Areas and Pinelands Towns. He said in all other management areas, such communication facilities must be part of the plan or the applicant must demonstrate that the tower is an accessory use serving a specific purpose. He said staff is currently reviewing two applications for communication towers, one of which is in Washington Township and the other in Dennis Township. He said both applications are outlined in the May Management Report.

Commissioner Irick asked if the T&E species at the Pemberton landfill site could be relocated.

Director Horner said that could be considered during the waiver process.

Commissioner Asselta asked if the Board of Public Utilities (BPU) and the Pinelands Commission have a coordination process in place for siting solar facilities in the Pinelands Area, specifically on sites that have environmental constraints. He said there is no reason for money to be unnecessarily spent on studies and surveys if a site cannot meet CMP requirements so it would be best if issues were identified well in advance.

ED Grogan said the BPU does reach out to the Commission when there is a potential community solar site in question. Staff provide information about existing applications on the site, any issues and previous approvals.

Director Horner added that in the instance of the Pemberton Township landfill, approximately two years ago the Commission approved an application for soil disturbance to determine the limits of the trash at the landfill. He said at that time it was known by both staff and the applicant that T&E species were present at the landfill.

Mr. Lanute described an instance where the BPU contacted the Commission about a solar project at the Whiting landfill in Manchester Township and staff were able to provide relevant details about the application status, which ultimately facilitated BPU's approval of an extension.

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

- Staff attended a meeting of the New Jersey Conservation Blueprint, which consists of multiple groups interested in conservation. At that meeting, the discussion centered around the following topics: timing discrepancies for funding sources, lack of opportunities for good acquisition projects and stewardship issues. The outgoing Executive Director of the State Agricultural Development Committee presented the formula for farmland preservation that was recently adopted and that are modeled after the Pinelands formula for evaluating farmland easements. SADC is looking at other aspects of the farm, such as water quality contributions, viewshed and habitat diversity.
- Staff will be participating in a technical advisory committee of SADC and in an upcoming Federal Emergency Management Agency-led meeting to discuss hazard mitigation at both the state and national level.

- As the fiscal year closes, staff has begun to work on annual reports for Permanent Land Protection and the Pinelands Development Credit (PDC) programs.
- Staff issued nine Letter of Interpretations for PDCs during the month of May.
- Some staff members attended the Pinelands Preservation Alliance science forum that focused on forest management practices as it relates to climate change impacts. A demonstration on mapping tools for carbon sequestration created by the Nature Conservancy was provided.
- The Commission was not a recipient of grant funding from the America the Beautiful Challenge.

Brad Lanute, Chief Planner, said Pinelands municipalities are actively adopting the model ordinances that staff distributed in late March. These ordinances respond to the CMP water management amendments that the Commission adopted last December and the stormwater management amendments that the NJDEP adopted last July. Fifteen municipalities have submitted adopted ordinances so far. Most of the remaining municipalities have either already introduced the ordinance or provided timelines to meet the July deadline for adopting the stormwater amendments. Staff will continue to monitor the progress of those remaining municipalities.

Paul Leakan, Communications Officer, said the 8th annual Pinelands Short Course is scheduled for Friday, June 28th in Hammonton. He said there is still time to sign up. He noted that staff educated approximately 640 people during Pinelands-specific programs and that staff shared 263 photos on Instagram and 61 tweets on the Commission's X site in May.

Public Development Projects and Other Permit Matters

Chair Matos introduced a resolution approving two Public Development Applications: one for the realignment of Route 530 and Route 70 in Pemberton Township and the other for a State Police barracks and helicopter pad at the Celia Cruz Service Area on the Garden State Parkway.

Commissioner Irick made a motion Approving With Conditions Applications for Public Development (Application Numbers 1990-0445.028 & 1990-0450.008) (See Resolution # PC4-24-11). Commissioner Asselta seconded the motion.

Director Horner said the Department of Transportation is proposing the realignment of an existing dangerous intersection where Lakehurst Road intersects with Route 70 in Pemberton Township. He said wetlands are present to the north and west of the intersection. An aerial was displayed depicting the general location of the wetlands (attached). He said the 90-degree realignment will remove pavement from the existing roadway. The proposed intersection will be closer to the wetlands located to the west.

He said the other application is for the construction of a state police barracks and helicopter pad on Lacey Township along the Garden State Parkway.

Commissioner Rittler Sanchez asked how many feet the new intersection would be from the existing intersection.

Mr. Ernest Deman of the Regulatory Programs office said that in order for the road to be realigned at a 90-degree angle, the new intersection will be approximately 50 to 75 feet west of the current intersection. He added that no tree clearing is proposed.

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

Ordinances Not Requiring Commission Action

Mr. Lanute said this month's memo was quite lengthy. He said given the length, the memo was organized by topic area.

Mr. Lanute said staff reviewed five ordinances that responded to the CMP and NJDEP amendments that he discussed earlier.

Staff reviewed two ordinances that responded to the Tier A MS4 Permit requirement to adopt a community tree removal and replacement ordinance.

Probably the most notable aspect of the memo were the 12 items from Berlin Borough that were reviewed. As described in the memo, sometime last year, the Commission received an ordinance from the Borough. During the course of review, it was discovered that a number of Borough ordinances and master plans had not received a final determination from the Pinelands Commission.

Katie Elliott of the Land Use Programs office carefully reviewed all of these items and was able to piece together the history and issues of concern that led to those delays. Most of the issues that were raised by staff at the time had since been resolved by other subsequent ordinances that the Commission had previously reviewed and approved. It was determined that only a minor ordinance amendment would allow for the Executive Director to make a finding of no substantial issue on all of these items. Commission staff discussed this with the Borough, and the municipality adopted that required amendment in a timely manner. In sum, the master plan and ordinance changes listed make fairly minor changes to the Borough's ordinances.

Commissioner Irick asked if the towns that adopted the Model Tree Ordinance made changes.

Mr. Lanute said both municipalities tailored the model ordinance to fit their needs. He said both towns had ordinances in place that addressed trees and vegetation. He noted that the no substantial issue letter was issued to the towns prior to the P&I discussion on the Model Tree Ordinance.

Other Resolutions

Chair Matos introduced the next resolution.

Commissioner Avery made a motion To Authorize the Executive Director to Continue to Expend Funds for Fiscal Year 2025 at the Same Level of Expenditures as Fiscal Year 2024 until the Adoption of the Fiscal Year 2025 Budgets (See Resolution #PC4-24-12). Commissioner Irick seconded the motion.

ED Grogan explained that this resolution is adopted annually by the Commission so it can continue to pay its expenses until the next Fiscal Year Budget is adopted. She said the anticipated state appropriation is listed in the resolution.

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

General Public Comment

Richard Dann, staff representative from the Communication Workers of America (CWA), spoke about the status of the current contract negotiations. (full comments are attached).

Dr. Amy Golden expressed her condolences to the family of Al Horner. She said she was friends with Al and his protégé, learning the art of photography, processing and printing an image and organizing a photography show. She said Al Horner fought to protect the Pinelands from off-road vehicle damage and his book and DVD are a testament to the beauty of the Pinelands. She said she supports the Commission's zoning change for the Black Run watershed. She said 59 acres that abuts the Sturbridge Lake development is under contract. She said if a housing development is built on this parcel, it will threaten the Black Run Stream and wildlife.

Emile DeVito of the New Jersey Conservation Foundation commented on the importance of updating the CMP's protected plant list. (comments and photographs are attached.) He added that he was saddened to hear of Al Horner's passing, noting that Mr. Horner was a champion for the Pinelands. He said the material where the illegal dumping occurred on Magnolia Road continues to sit on the property and wash into Stop the Jade Run, the Ong's Hat Preserve and into the Dot and Brooks Evert Trail. He said wetlands have been filled, and he wishes that the process to determine what is in the fill and remove it from the property could happen more quickly. Lastly, he noted that the critical habitat at the Pemberton Township landfill cannot be mitigated. He added that rare species are present at the Southern Ocean landfill.

Jason Howell of the Pinelands Preservation Alliance suggested emailing NJDEP Commissioner Shawn LaTourette in support of developing a map for Wharton State Forest. He said this is something Al Horner felt very strongly about. He commended the Commission for its siting of communication towers. He said the absence of towers has added scenic value to the land and helped Al capture the beautiful scenery through his photography. He said that he supported moving forward quickly with rulemaking to protect the Black Run.

Harry Harper of Pemberton Township said the landfill in Pemberton has been untouched for 60 years, and the site is covered in natural vegetation. He said he does not support placing a solar facility on the landfill.

Michelle Forman of Pemberton Township said she has paperwork on an application proposing solar on a landfill that is surrounded on three sides by state forest. She said she does not support placing solar in the middle of a forest. She said she has information that there were 1,500 drums of unidentified, toxic chemicals located at the landfill at some point. Lastly, she said she cannot fathom the idea of relocating the endangered species from the site. She also said that she does not understand why the type of species cannot be shared with the public.

Adjournment

Commissioner Rittler Sanchez suggested that when the Commission is voting on more than one public development application that they each have a separate resolution and vote.

Commissioner Avery offered the suggestion of reaching out to Burlington County on the matter of the Magnolia Road wetlands filling violation. He said maybe the county has the ability to test the materials. He said it doesn't seem acceptable that nothing is happening at the site considering the magnitude of the materials that were dumped.

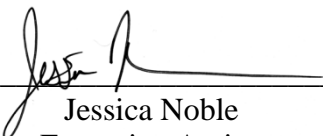
Director Horner said staff will follow up with the NJDEP and the Burlington County Health Department to try and expedite the testing and cleanup of the Magnolia Road site.

Commissioner Asselta said in 1999, New Jersey chose to deregulate energy production, and that meant the state would rely mostly on its then two existing nuclear plants Oyster Creek and Salem & Hope Nuclear Generating Stations and coal plants in West Virginia and Ohio for electricity. He said the need for electricity in New Jersey continues to grow. He said in the future, as the United States Government and Federal Energy Regulatory Commission (FERC) deregulate coal generated electricity, New Jersey will receive less and less. He said solar- and wind-powered energy will be necessary to provide clean energy to New Jersey and sacrifices will have to occur. He said it may mean placing solar on a defunct landfill.

Commissioner Lohbauer, in response to the last public commenter, said the reason staff cannot disclose the type of T&E animal is for the protection of the species.

Commissioner Irick moved to adjourn the meeting. Commissioner Pikolycky seconded the motion. The Commission agreed to adjourn at 11:10 a.m.

Certified as true and correct:



Jessica Noble
Executive Assistant

Date: June 20, 2024



Albert D. Horner

August 7, 1946 – May 29, 2024

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More than just pines

Discover the secrets of the Pinelands

It may look like just pine trees and sand, but investigate a little further and you'll encounter a fascinating natural and cultural landscape. The Pinelands is a vast mosaic of forests, streams, and wetlands, plus farms, villages, and homes—some long abandoned and some modern and vibrant.

We invite you to discover what's beneath the surface.

Photo: Tom Appleby, Pinelands Foundation



Proceeds from all sales of Pinelands merchandise benefit the Kathleen M. Lynch-Van de Sande Fund for the Reforestation of the New Jersey Pinelands.

The fund was established in memory of Mr. Lynch-van de Sande, a Pinelands Commission Environmental Specialist who died in a car accident in June 1986. Proceeds from merchandise sales and/or donations to the fund support the planting of native Pinelands plants and projects that raise awareness about native Pinelands plants.

How to Buy Pinelands Merchandise Online



Mr. Horner donated his photo of sunrise over Wharton State Forest for the Commission's exhibit

In 2022, Mr. Horner donated 17 of his framed photos of the Pinelands for display at the Pinelands Commission's Offices. In 2023, he gave the Commission dozens of additional photos to be displayed at our office.







Winter 2011



8/50

Woodward



Woodchuck



Woodchuck

Mr. Horner's donated photos can now be enjoyed in the Commission's buildings, where they will help to raise awareness and appreciation of the extraordinary beauty of the Pinelands.

The Commission plans to frame more of his donated photos in the coming months.





I am here to make the Commissioners aware of the difficulty faced by your employees in trying to obtain a new contract.

The last contract between the Pinelands Commission and CWA expired eleven and a half months ago, and management has constantly dragged its feet in negotiations. In fact, the Commission's negotiators did not even make counterproposals until more than seven months after the expiration date. As I stand here today, we are waiting once again for management to schedule another bargaining session, following several cancellations.

To make matters worse, management has repeatedly put obstacles in the way for no good reason.

The first problem arose last summer when management refused to pay annual merit increases, even though New Jersey labor law clearly requires such benefits to be continued during negotiations. After several months of litigation, the Public Employment Relations Commission (PERC) ordered management to pay the increases, but even then management requested PERC to reconsider. In January PERC unanimously rejected management's request, ruling that its refusal to pay the required increases wrongly disrupted negotiations.

Despite all this, management is still trying to prevent annual merit increases from continuing after the next contract expiration by proposing that the increases would sunset at the end of the contract. Given management's practice of dragging out negotiations, this is obviously intended to coerce the union by making employees wait months for their merit increases or possibly lose them altogether.

Another problem is the cost of health benefits. For the past few months, we have tried to persuade management to make changes to employee health benefits in order to reduce premiums and decrease employee contributions, while making the contribution levels more equitable and consistent. The union's proposal would even save money for the Pinelands Commission. A key part of the union's proposal is to replace the old Chapter 78 brackets that are currently being used to calculate employee contributions.

For a long time, management refused to even consider any changes at all with respect to health benefits, then eventually offered to make an annual payment to employees who switch to a less expensive plan.

Despite this, however, management still insists on keeping the old Chapter 78 brackets, even though the union has pointed out the inequities and has shown that

its proposal would be less costly to management than the current arrangements. When asked why it rejects the union's proposal, management says only that it is concerned about future costs, even though the union has thoroughly analyzed future costs and management does not challenge the union's figures.

In short, management is rejecting the union's proposal for no reason at all, other than its apparent aversion to change. I can't begin to tell you how frustrating it is to negotiate when the other side refuses to change but can't articulate any factual basis for its refusal. It seems that management simply isn't willing to negotiate in good faith on reasonable terms.

I ask that the Commission instruct its negotiators to return to the bargaining table and consider the union's proposals in good faith with the aim of reaching a fair agreement as quickly as possible.



Partnerships for New Jersey

Plant Conservation

Scientists, Advocates, Educators and Citizens

Working Towards Protection of New Jersey's Rare Flora

Testimony to the Pinelands Commission, June 14, 2024, concerning the CMP list of protected plant species.

Thank you for the opportunity to remind the Pinelands Commission again that its list of protected plant species has been obsolete for many years and thus is in serious need of updating.

We do understand that the Commission staff has limited resources and a full agenda. However, we believe that the Commission could take advantage of some readily available resources to use in updating its protected plant list.

For example, we recently got reports from the New Jersey Natural Heritage Program listing all the plant species of conservation concern that occur in the Pinelands, and we're in the process of studying those reports in order to make sensible specific recommendations to the Commission.

In the meantime, we want to share a few examples of some of the plants of conservation concern that occur within the Pinelands but that currently have no official protection.

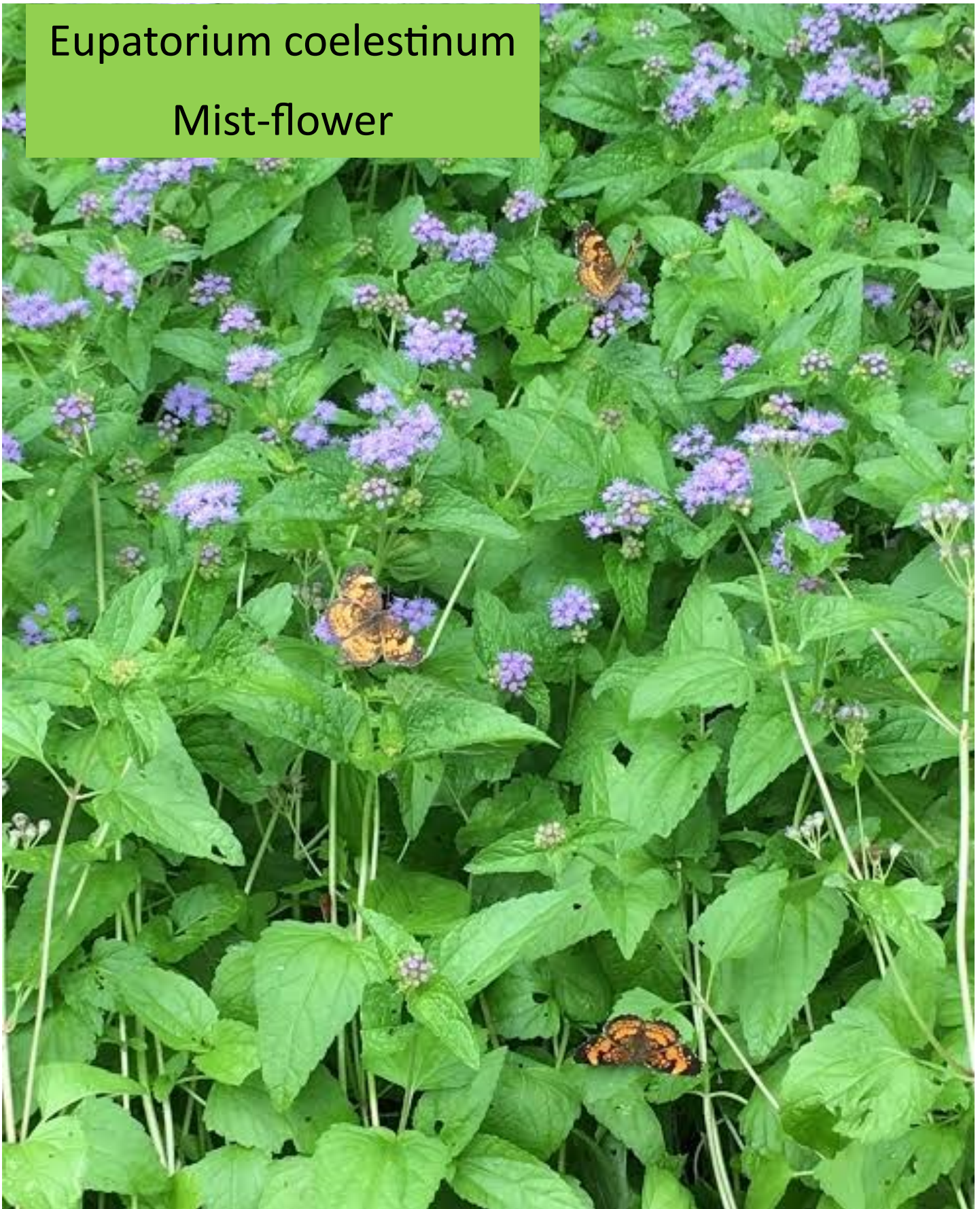
Spiranthes odorata

Fragrant Ladies-tresses



Eupatorium coelestinum

Mist-flower



Arethusa bulbosa

Dragon-mouth



Agalinis fasciculata

Pine Barren Foxglove



Asclepias lanceolata

Smooth Orange Milkweed



Lupinus perennis
Sundial Lupine



Polygala polygama

Racemed Milkwort



Sabatia campanulata

Slender Marsh-pink



Stylosanthes biflora

Pencil Flower

Pencil Flower
Stylosanthes biflora



Gentiana saponaria
Soapwort Gentian

