

Disclaimer

These minutes reflect the actions taken by the Commission during its September 13, 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 September 20, 2024.

PINELANDS COMMISSION MEETING

MINUTES  
September 13, 2024

*All participants were either in-person or present via Zoom conference and the meeting was livestreamed through YouTube: [https://www.youtube.com/live/Hi\\_T3zUi0yk?feature=shared](https://www.youtube.com/live/Hi_T3zUi0yk?feature=shared)*

Commissioners Participating in the Meeting

Nicholas Asselta, Alan W. Avery Jr., Dan Christy, John Holroyd, Mark Mauriello, Jonathan Meade, 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

Jerome H. Irick, Theresa Lettman and Mark Lohbauer.

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. Ten Commissioners participated in the meeting.

The Commission pledged allegiance to the Flag.

## Minutes

Chair Matos presented the minutes from the Commission's August 9 2024 meeting. Commissioner Pikolycky moved the adoption of the minutes. Commissioner Asselta seconded the motion.

The minutes from the August 9, 2024 Commission meeting were adopted by a vote of 10 to 0.

## Committee Reports

Chair Matos said the August 27, 2024 Policy and Implementation (P&I) Committee meeting was canceled.

Vice Chair Avery read the summary of the August 20, 2024 Personnel and Budget Committee meeting:

The Committee adopted the minutes from its June 18, 2024 meeting.

Staff reviewed the financial records that included: Check Registers, Electronic Disbursements and Application Fees. Fee revenue for Fiscal Year 2024 significantly exceeded the budgeted amount.

It was noted that in preparation for the Fenwick Manor Rehabilitation Project, the MIS office partnered with the NJ Office of Information Technology to relocate the telecommunication fiber optics from the Fenwick Manor basement to the Richard J. Sullivan Center.

Staff presented the draft Fiscal Year 2025 Budgets, which were reviewed by the Committee and recommended to the full Commission for adoption.

## Executive Director's Report

ED Grogan provided information on the following matters:

- The Fenwick Manor renovation project Request for Proposal was posted to the NJ Treasury website and a fully executed grant agreement was provided to the Commission. A mandatory pre-proposal meeting is scheduled for September 26<sup>th</sup> and bids are due October 10<sup>th</sup>. More details, including project timeline, will be known once this next step is completed.
- A presentation on the Pinelands was provided at the quarterly working group of the US Biosphere Network that met at the beginning of September. A review of the history of the Pinelands was included and an explanation on how the Commission regulates and manages the Pinelands Area. The Commission will need to prepare a report in 2026 in order for the Pinelands to maintain its Biosphere designation.

April Field, Chief Permitting Officer, provided information on the following regulatory matters:

- A large residential development, known as Ocean Acres in Barnegat Township, is planning to construct approximately 108 single family dwellings in an undeveloped section of the subdivision. In 2004, the Commission entered into two agreements and various rezonings occurred to address residential density and Threatened and Endangered (T&E) species standards, which developed the framework for future development of specific portions of Ocean Acres. Staff is scheduled to meet with the applicant to discuss the proposed development, including what information will be necessary to demonstrate consistency with stormwater and T&E standards.
- A response from the property owner in Pemberton Township who filled wetlands while improving an agricultural access driveway indicated that the soil will be removed from the parcel. The property owner is seeking additional time to remove the soil. Staff will be contacting the property owner to gather additional details.
- An application proposing 578 dwelling units in Pemberton Township is currently before the municipal planning board. The applicant received a Certificate of Filing in 2005 after completing an application and conducting numerous T&E studies. Staff advised the applicant that additional T&E surveys were necessary, including a two-season drift fence snake survey. The results of the first season were negative.

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

- Staff continues to spend a great deal of time working with other state agencies on various rule proposal initiatives, including New Jersey Department of Environmental Protection (NJDEP) REAL (Resilient Environments and Landscapes) rules, Hazardous Mitigation Planning efforts, and the Pinelands Infrastructure Trust rules.
- A number of Pinelands Development Credit Letters of Interpretation have been issued. Should the property owners choose to sever their credits, land will be deed restricted and considered permanently protected.
- Project proposals for the 2024 Pinelands Conservation Fund (PCF) land acquisition grant round must be submitted no later than Monday, September 16<sup>th</sup>.

Stacey Roth, Chief, Legal and Legislative Affairs, said the Commission will be meeting in closed session at the end of the meeting to discuss litigation matters.

Brad Lanute, Chief Planner, provided an update on the Land Use Programs office:

- Staff continue to review ordinances related to the Commission's Kirkwood-Cohansey rule amendments from last December and the NJDEP stormwater amendments from last year. All but seven municipalities have adopted these amendments at this point, which is very good progress.

- Staff continue to work through many tree removal/replacement ordinances, which all Pinelands municipalities have had to adopt to satisfy their MS4 permit requirements. Staff has seen a great deal of variability in these ordinances. Some towns have crafted thoughtful ordinances to the local context, which is positive. On the other hand, it does make staff's review a bit more challenging given the variation across 50 ordinances.
- Staff had a productive meeting with the NJDEP last month regarding tree removal/replacement ordinances. Staff shared the concerns that were raised at the May P&I Committee meeting. Also discussed was how much flexibility the department was affording municipalities regarding these ordinances. In general, it seems like the Commission's concerns can be addressed in these ordinances without compromising the intent of the MS4 permit requirements.

Paul Leakan, Communications Officer, said the next education series on Fungi has closed out with 60 registrants. Staff is currently planning the World Water Monitoring challenge scheduled for October 25th at Batsto Lake.

ED Grogan said a Great Blue Heron carving was donated by the Commission's first Executive Director, Terrence D. Moore, and can be seen in the lobby. She noted that it was a retirement gift to Mr. Moore from Gary Giberson, a well-known wood carver. Staff will be purchasing a plaque with information on who donated it and who carved it.

#### Public Development Projects and Other Permit Matters

Chair Matos introduced a resolution approving two public development projects: the construction of recreational facilities at the New Hanover Township Elementary School and the construction of a public safety building in Mullica Township.

Commissioner Avery made a motion Approving With Conditions Applications for Public Development (Application Numbers 1991-0320.005 & 2007-0301.005) (See Resolution # PC4-24-16). Commissioner Pikolycky seconded the motion.

Ernest Deman, Supervising Environmental Specialist, provided details on the two public development applications. He said New Hanover Township is proposing to surface an existing cinder running track with asphalt, install a half court for basketball and construct a combination baseball/ softball field. He said currently the Mullica Township Police Department utilizes the basement level of the existing Mullica Township municipal building. He said the lower level of the building is experiencing a mold issue necessitating the construction of a new building for the public safety employees.

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

#### Planning Matters

Chair Matos introduced a resolution regarding a Memorandum of Agreement (MOA) to allow for trail improvements at an existing park in Stafford Township.

Commissioner Mauriello made a motion Authorizing Execution of a Memorandum of Agreement between the Pinelands Commission and Stafford Township Regarding Accessibility Improvements to the Existing Trails at Forecastle Lake Park (See Resolution # PC4-24-17). Commissioner Wallner seconded the motion.

Ms. Roth noted that the Township Administrator, Matthew von der Hayden, and Township Engineer Frank Little are attending the meeting today. She said Stafford Township is proposing to improve existing trails located along Forecastle Lake and resurface four handicap parking spaces at an existing parking lot located close to the trail head. The improvements are intended to make the current trail, which consists of an uneven dirt surface more accessible to individuals with mobility challenges. The Township is proposing to pave a six-foot wide portion of the trail. The proposed improvements are located within wetland buffers. The Pinelands Comprehensive Management Plan (CMP) does not permit paving of trails in wetlands buffers. The proposed MOA would authorize a deviation from the wetland buffer standards of the CMP and establish an alternative permitting process for construction of the trail improvements. She said an offset is required for deviation MOAs that affords an equivalent level of protection for the resources of the Pinelands. She said the town is proposing to reforest a 35,000 square foot area with native Pinelands vegetation. (see attached presentations slides).

Commissioner Rittler Sanchez asked if the Commission staff will be monitoring the area to be revegetated. She said it will take a few years for the area to mature.

Ms. Roth said the MOA requires the Township to submit a reforestation plan and specifies that the area must be maintained in perpetuity. She also noted that MOA requires the Township to attend a meeting of the P&I Committee and provide a summary of the project following its completion.

ED Grogan added that the Commission staff would like to do more monitoring but it's not feasible given current staffing levels. However, should any problems arise with revegetation of the offset area, staff will do a site inspection.

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

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

Chair Matos read the list of public development applications up for comment.

No one from the public spoke.

#### Ordinances Not Requiring Commission Action

Chief Planner Lanute said staff reviewed a total of 28 ordinances in the last month, 22 of which were related to the Kirkwood-Cohansey water management and stormwater management model ordinances. One ordinance related to tree removal/replacement.

#### Other Resolutions

Chair Matos introduced a resolution to adopt the Fiscal Year 2025 Budgets.

Commissioner Avery made a motion To Adopt the Pinelands Commission's Fiscal Year 2025 Budgets for the Operating Fund, Fenwick Manor Preservation Fund and Pinelands Conservation Fund (See Resolution # PC4-24-18). Commissioner Pikolycky seconded the motion.

ED Grogan said the FY2025 budget consists of three separate budgets (Operating Fund, Pinelands Conservation Fund (PCF) and Fenwick Manor Preservation Fund) and each budget supports specific initiatives and projects that staff plan to undertake in this Fiscal Year.

She said she requested an increase of \$200,000 to the state appropriation to cover the cost of salary increases anticipated in the Communication Workers of America (CWA) contract. She said the state supplemental funding continues to remain the same, which means that each year the Commission's portion of health insurance costs increases. Operating fund revenues and expenditures were reviewed, with the budget notes providing the details of each item. She said a new initiative for FY 2025, that will be funded by the National Park Service, is a cultural resource data sharing agreement with the State Historic Preservation Office (SHPO). The presentation slides (see attached) include a lengthy list of the day-to-day responsibilities, upcoming and ongoing projects and unexpected projects for FY2025.

ED Grogan described the four categories of the PCF Budget expenditures that support land acquisition, conservation planning and research, community planning and design and education and outreach. The conservation planning and research account funds much of the Science Office's work. The community planning and design account funds the Pinelands Development Credit Bank, which the Commission has been administering since 2011 and has received no compensation from the Department of Banking and Insurance. This budget also supports World Water Monitoring Day, the speaker series and the Short Courses. The FY25 budget includes money to redesign the Commission website with assistance from the Office of Information Technology. The PCF budget will also support a number of upcoming CMP Amendments. The Commission is hoping to find a stormwater consultant to assist staff in reviewing plans, provide training and create guidance documents.

Lastly, ED Grogan reviewed the budget for the Fenwick Manor Preservation project totaling \$1,195,000. She said this project will likely have a phase two for the items that cannot be addressed due to limited funds.

Commissioner Mauriello asked if staff has list of properties that is used in its land preservation efforts. He noted the importance of County appointed Commissioners notifying their respective local officials of potential acquisition projects. He said it's an opportunity to notify municipalities about the importance of the Commission's work.

ED Grogan said there is a map that includes two specific sets of acquisition target areas: the Section 502 Areas established in the 1980s and, in more recent years, an additional 21 target areas . She said when a new round of acquisition is launched, the map is provided and bonus

points are given to properties in the Target Areas. She said counties and non-profit organizations are typically project partners.

Commissioner Mauriello said that changes in regulations, for example, the NJDEP's Flood Hazard Area Control Act rule, impact sites, and the priority to acquire the site becomes more evident due to the constraints from state regulations.

ED Grogan said that's how a new target area in Pemberton Township was added to the land acquisition map. She added that the current source of money in the PCF stems from an agreement with the South Jersey Transportation Authority and is to be used first for grassland habitat.

Commissioner Avery thanked staff for preparing the budget and the analysis that was prepared for the estimate of application fee revenue. He said the problem with the budget is the lack of increase in state supplemental funding, which the Executive Director noted earlier. The Commission must pay the difference in the increase in healthcare costs. He said the state treats the Commission as a local unit of government rather than a state unit of government. He said the explanation of the budget and the work to be completed in FY25 is impressive.

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

Chair Matos introduced a resolution that would provide an extension of time to Atlantic County to complete its obligations associated with the Secondary Impacts Agreement.

Commissioner Avery made a motion To Authorize an Additional Extension of the Time Period for Atlantic County to Complete its Obligations Under the Secondary Impacts Agreement for Interchange 44 of the Garden State Parkway (See Resolution # PC4-24-19). Commissioner Pikolycky seconded the motion.

Ms. Roth said that in May of 2013, the Commission approved a full interchange for Exit 44 on the Garden State Parkway near Stockton University. As part of the application, Atlantic County agreed to obviate secondary impacts in a 1.5-mile radius from the interchange. The area surrounding the interchange is a Rural Development Area. The county elected to acquire the properties, rather than merely recording easements. So far, the County has acquired 352 acres of the 356 acres in Tier 1. The County only needs to acquire four more acres. The COVID-19 Pandemic along with turnover in the County planning office has made it difficult to complete the remaining acquisitions. The County is requesting an additional 1-year extension to complete the transaction. Commission staff suggested an additional 2-year extension might be more beneficial, extending the time-period to September 7, 2026. (See attached presentation slides.)

Commissioner Mauriello asked if the properties acquired by the County are listed on the Recreation and Open Space Inventory (ROSI).

Ms. Roth confirmed that the properties are listed on the ROSI.

In response to a question from Commissioner Rittler Sanchez, Ms. Roth also confirmed that all of the properties acquired by the County are deed restricted.

The resolution was adopted by a vote of 9 to 0. Commissioner Wallner was not present during the vote.

#### General Public Comment

Mike Kaliss said he is an 8-year volunteer with the Friends of the Black Run Preserve. He said he supports the Commission's proposal to change the Management Area designation from a Rural Development Area to a Forest Area. He said the development pressure in that area could have a negative effect on the ecosystem. He asked the Commission to expedite the review of the zoning change. He said he supports Evesham Township's proposal to install accessible trails at the Black Run Preserve, however he would like to see the trail in a different portion of the park where tree cutting would not be necessary. He added that the portion of the park where the Township is proposing the trail is very remote and could be tricky to rescue someone using a wheelchair. He noted that he shared his concerns with Evesham Township and the Pinelands Preservation Alliance.

Edward Ferrugia, Voorhees, NJ, said he would like to see the Commission take action on the Black Run Rule proposal. He said he supports the rule proposal, however it is a compromise because although the Black Run watershed is protected, he would like to see the upland forest protected as well. He said that the upland forest is located south of the watershed. He said the matter is becoming critical and he urged the Commission to ask the P&I Committee to proceed with the rule proposal.

Jason Howell of the Pinelands Preservation Alliance said the attorney for the Pole Bridge Road development in Pemberton Township was recently before the Planning Board, and the developer's attorney stated that they would be trying to convince the Commission that a specific area on the parcel is not a wetland. He said an expert ecologist inspected the property and determined that the area in question is in fact a wetland. He said that report will be submitted to the planning board and the Commission. He requested the Commission expedite its review of the Forest Area designation in the Black Run. He said that it is critical to maintain the ecological integrity of the area. He also suggested that it may be helpful to inform the public of the next steps for the Black Run rule proposal.

John Kane suggested that someone from the Commission monitor real estate sales transaction sites so large parcels of land can be acquired for preservation before developers purchase the land. He said he would like to see the Department of Transportation revegetate the area where trees were removed for the Garden State Parkway expansion in Cape May County.

Elizabeth, a Sturbridge Lakes resident, said that the forest near her neighborhood must be protected. She urged the Commission to expedite the rezoning of the Black Run watershed to a Forest Area. She said that like many of her neighbors, she chose to live in her community because of the trees and wildlife that provide a sanctuary where she can reconnect with nature.



Closed Session

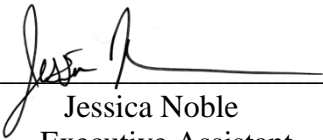
DAG Stypinski read a resolution to retire into closed session. Commissioner Avery made a motion to enter into closed session. The motion was seconded by Commissioner Rittler Sanchez and all voted in favor. The Commission met in closed session beginning at 11:02 a.m.

The Commission returned to open session at 11:30 a.m. Ms. Roth said that during closed session the Commission was provided an update on pending litigation matters: Hovsons Inc., an appeal from Clayton Sand Company on the Kirkwood-Cohansey rules and anticipated litigation involving a property owner in the Pinelands Area.

Adjournment

Commissioner Pikolycky moved to adjourn the meeting. Commissioner Asselta seconded the motion. The Commission agreed to adjourn at 11:32 a.m.

Certified as true and correct:

  
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Jessica Noble  
Executive Assistant

Date: September 20, 2024