

Disclaimer

These minutes reflect the actions taken by the Commission during its December 13, 2013 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 December 27, 2013.

PINELANDS COMMISSION MEETING<sup>1</sup>

Richard J. Sullivan Center  
Terrence D. Moore Conference Room  
15 Springfield Road  
New Lisbon, New Jersey

MINUTES

**December 13, 2013**

Commissioners Present

Candace Ashmun, Alan W. Avery, Jr., Bill Brown, Sean Earlen, Leslie Ficcaglia, Paul E. Galletta, Robert Jackson, Ed Lloyd, Ed McGlinchey, Richard Prickett, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison Kerstin Sundstrom and Deputy Attorney Generals (DAG) Helene Chudzik and John Renella.

Commissioners Absent

Gary Quinn, Joe DiBello and D'Arcy Rohan Green.

Chairman Lohbauer called the meeting to order at 9:42 a.m.

DAG Chudzik read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum.

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<sup>1</sup> Please note that all attachments are maintained with the original minutes, but are not attached to copies. For information about attachments, please contact the office.

The Commission and public in attendance pledged allegiance to the Flag.

Chairman Lohbauer welcomed back Commissioner Ashmun and Alan W. Avery. Chairman Lohbauer said Ocean County recently appointed Commissioner Avery as the replacement for the late John Haas. Chairman Lohbauer said Commissioner Avery previously served on the Commission for 21 years and has already been sworn in.

### Minutes

Chairman Lohbauer presented the November 8, 2013 Commission meeting minutes. Commissioner Ficaglia moved the adoption of the minutes. Commissioner Earlen seconded the motion.

The minutes of the November 8, 2013 Commission meeting were adopted by a vote of 11 to 0, with Commissioner Avery abstaining.

### Other

Chairman Lohbauer said that before we start regular business, he would like to take a moment to remember two men who were very influential in preserving the Pinelands. He said that he attended Commissioner Haas' funeral last week. He asked Alan Avery, who delivered the eulogy at John's funeral, to read some of his remarks about Mr. Haas today.

Commissioner Avery said that he and John were colleagues at Ocean County for almost 40 years and a deep friendship developed. He said John played basketball at Monmouth College and was inducted into its Hall of Fame. He said John had the option to play professionally but declined. He said John spent his childhood at the Jersey shore and lived there most of his adult life. He loved the Barnegat Bay and enjoyed fishing and sailing there. He also belonged to the Seaside Park Yacht Club and served as its Commodore. Commissioner Avery said that in retirement he and Mr. Haas spent a lot of time trout fishing and travelling to famous trout streams to fly-fish.

He closed by saying that when the Freeholders of Ocean County approached him to represent Ocean County at the Commission, it was not an offer that he could refuse.

Chairman Lohbauer said the Commission also recently lost another important member, Richard J. Sullivan, who served as Chairman of the Commission from 1988-1998. Chairman Lohbauer read a long list of Mr. Sullivan's accomplishments and asked Commissioner Ashmun to say a few words.

Commissioner Ashmun said she worked on numerous projects with Richard Sullivan through the years and that she was proud to be his friend.

A moment of silence was observed in honor of John Haas and Richard J. Sullivan.

Committee Chairs' Reports

Policy & Implementation Committee

Chairman Lohbauer updated the Commission on action from the November 22, 2013 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes of the October 23, 2013 meeting.

The Committee authorized advance payment to the Trust for Public Land for Pinelands Conservation Fund monies allocated to purchase the Clayton property. Closing is scheduled for December 18, 2013.

The Committee recommended the Commission adopt a resolution related to an agreement and funding of \$20,000.00 for the Cape May County Municipal Utility Authority's comprehensive wastewater planning study.

The Committee recommended the Commission certify Dennis Township's revised master plan and Ordinance 2013-03.

The Committee received an update on a draft Memorandum of Agreement with the Board of Public Utilities, including a proposed schedule for its consideration.

The Committee received comment from 37 members of the public on the proposed South Jersey Gas pipeline.

Chairman Lohbauer updated the Commission on action from the December 4, 2013 Policy and Implementation (P&I) Committee meeting

This meeting was called to discuss the provisions of a proposed Memorandum of Agreement (MOA) between the Pinelands Commission and the Board of Public Utilities (BPU) to allow South Jersey Gas to construct a pipeline through the Forest Area to the B.L. England electric generating station.

The MOA includes measures to ensure an equivalent level of protection for the resources of the Pinelands including acquisition of 2,000-3,000 acres of land in the vicinity of the pipeline, expanded educational and outreach programs and measures to be implemented during and post construction.

Thirty-five members of the public provided comment on the proposal.

Personnel & Budget Committee

Chairman Lohbauer said the originally scheduled meeting of December 3, 2013 was cancelled due to lack of agenda items.

Plan Review Committee

Commissioner Ashmun said the November 8, 2013 meeting of the Plan Review Committee was canceled. However, the Committee will try to meet later today. (The meeting was cancelled)

Executive Director's Reports

Ms. Wittenberg said that Stacey Roth is out today but reachable by phone in the event she is needed during the meeting. She said that Helene Chudzik and John Renella are both here from the Attorney General's office.

Mr. Larry Liggett updated the Commission on the following:

- Staff met with Carrie Mosley of U.S. Department of Agriculture's Natural Resources Conservation Services. Ms. Mosley and her staff work with farmers to restore portions of agriculture fields to functioning wetlands. Ms. Mosley and her staff were interested in understanding the Commission's regulations and discussing future projects.
- The Town of Hammonton requested an increase in water allocation about three years ago. A condition of that approval required Hammonton to address its wastewater management issues. The Town had three years to develop a plan to end all surface water discharges. Staff has been working with the town closely and is happy to announce that the Town has a plan to build a 26.5 acre overland drip irrigation system at the Boyer Avenue wastewater facility. Staff will be seeking recommendation on the plan from the Policy and Implementation Committee in early 2014 before seeking approval by the full Commission.

Mr. Chuck Horner updated the Commission on the following:

- Staff met with Senator Robert Singer to discuss an affordable housing development project in Manchester Township, that includes a proposal for sanitary sewer. The proposed extension of the sewer line would go through the Preservation and Forest Area, neither of which is permitted. The applicant will be pursuing alternatives.
- Staff met with the consultant hired to assist in the review of the Route 72 stormwater management basin reconfiguration in Stafford Township. The applicant posted an escrow, allowing the Commission to retain an engineer to review the proposal for the construction of the basin.
- The Commission recently released a permit for the reuse of the William B. Kessler Hospital in Hammonton. The facility will now house medical offices.
- Staff will be meeting with Woodland Township to discuss tree removal at the Franklin Parker Preserve.
- The Ocean County Agriculture Development Board recently determined that an applicant who cleared land was not entitled to "right to farm". The Commission will work with the applicant on revegetating the cleared area.

Public Development Projects and Other Permit Matters

Commissioner Galletta moved the adoption of a Resolution Approving With Conditions an Application for the Issuance of a Certificate of Appropriateness (App. No. 2013-0047.001) (See Resolution # PC4-13-42). Commissioner Prickett seconded the motion.

Mr. Horner said by approving the resolution for the Certificate of Appropriateness, specific measures will be taken by the County to temporary preserve the historic bridge at another location. At this time, the County is also proposing a temporary bridge structure, approval of which is covered by an existing Memorandum of Agreement (MOA) between Atlantic County and the Commission. The ultimate treatment of the historic bridge will be determined as part of the County's application to the Commission for a permanent bridge. That application will require that the Commission to issue another Certificate of Appropriateness specifying the appropriate permanent treatment of the historic bridge.

The Commission adopted the resolution by a vote of 12 to 0.

Resolutions Relating to Municipal Ordinances

Commissioner McGlinchey moved the adoption of a Resolution Issuing an Order to Certify Resolution 10-12, Adopting Dennis Township's 2012 Master Plan – Land Use Plan, and Ordinance 13-03, Amending and Superseding Chapters 165 (Subdivision of Land) and 185 (Zoning) of the Code of Dennis Township (See Resolution # PC4-13-43). Commissioner Jackson seconded the motion.

The Commission adopted the resolution by a vote of 11 to 0, with Commissioner Avery abstaining.

Other Resolutions

Commissioner Ashmun moved the adoption of a Resolution to Authorize the Executive Director to Execute a Memorandum of Understanding (MOU) among the Pinelands Commission, the Borough of Woodbine and the Cape May County Municipal Utilities Authority to Assist and Participate in a Comprehensive Wastewater Planning Study to Potentially Eliminate Onsite Septic Systems Servicing Existing and Future Residential, Commercial and Institutional Uses in the Borough of Woodbine and to Revise the FY2014 Pinelands Conservation Fund Budget (See Resolution # PC4-13-44). Commissioner Jackson seconded the motion.

Mr. Liggett displayed an aerial of the study area (see attached slide). He said the Cape May County Municipal Utilities Authority (CMCMUA) has received a grant of \$90,000 from the United States Department of Agriculture (USDA) through its Rural Development Program to look at the feasibility of installing a joint interceptor in the Town of Woodbine to connect to the CMCMUA. Currently, Woodbine has a developmental center with an on-site wastewater treatment facility, a downtown area looking for growth, a state-of-the-art landfill that collects leachate that is trucked off-site and an industrial area with an existing airport. The study will look at the aforementioned areas and determine if there is an

advantage to constructing the sewer infrastructure. The USDA requires a \$30,000 local cash match, the CMCMUA is contributing \$10,000. Woodbine Borough is seeking \$20,000 from the Commission's Pineland Conservation Fund for the remaining balance of the match contribution. By approving the resolution to enter into the MOU, the Commission would partner in the study and allocate \$20,000 to the CCMUA.

Mr. Liggett said more money may be needed for professional services in the future.

Commissioner Jackson asked if the planning study would take into consideration the cost and effect on residents of the sewer hook-ups.

Mr. Liggett said Mayor Pikolycky responded to the Commission in writing after that same question was raised at the November 22, 2013 Policy and Implementation Committee meeting. The Mayor said he would seek grants that offer residents assistance with the cost of sewer hook-ups.

Mr. Liggett added that it is unclear at this point, if the sewer would be offered to residents. The goal right now is to look at the downtown area.

Commissioner Prickett added that Woodbine is served by public water.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Ashmun moved the adoption of a Resolution Setting Pinelands Commission Meeting Dates for 2014 (See Resolution # PC4-13-45). Commissioner Jackson seconded the motion.

Commissioner Galletta and Commissioner McGlinchey said they would like an additional night meeting added to the 2014 calendar.

Commissioner Lloyd said he was not opposed to a night meeting but he did not think that the change in time would increase public participation.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Ficaglia moved the adoption of a Resolution To Authorize the Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Application Requirements and Procedures; Letters of Interpretation; Pilot Program for Alternate Design Treatment Systems) (See Resolution # PC4-13-46). Commissioner McGlinchey seconded the motion.

Ms. Grogan highlighted the proposed amendments to the Comprehensive Management Plan (CMP). She said the rule proposal will formally eliminate the Cromaglass system from the Commission's Alternate Design Wastewater Treatment System's Pilot Programs, in addition to extending the deadline for the installation of the remaining alternate design systems. Other changes were driven by Plan Review, including extending Letters of

Interpretations (LOI) from two years to five years. In allocating Pinelands Development Credits, the Commission will no longer take into account common ownership of adjacent properties. We have also added two exemptions from application to the Commission: home occupations and change of use applications. The municipality will continue to review these applications.

Ms. Grogan said if this is approved today, the formal rule-making process will begin.

Commissioner Ashmun asked about the existing homes that are currently using the Cromaglass septic system.

Ms. Grogan said there are about 60 Cromaglass systems installed in the Pinelands and the homeowners will not be required to remove or change the systems unless they choose to do so.

Commissioner Ahsmun also raised concern about changing the LOIs to five years. She said the two year date was in place to catch any development.

Ms. Grogan said there is a process in place. If an applicant submits a development application on a parcel which already has an LOI, an amended LOI would be issued.

Commissioner Jackson has reservations about the homeowners who currently have a Cromaglass system; he would like to have a system in place in the event these septic systems need maintenance.

Mr. Liggett said staff would get back to the Commission with potential ideas of how the Commission can help the homeowners and he agrees the Commission has an obligation to do so.

Commissioner Galletta recused himself and left the room because the rule proposal makes adjustments to LOIs for Pinelands Development Credits.

The Commission adopted the resolution by a vote of 10 to 0, with Commissioner Avery abstaining and Commissioner Galletta recusing himself from voting.

#### Public Comment on Agenda Items and Pending Public Development Applications

No public comment was offered.

#### Ordinances Not Requiring Commission Action

Chairman Lohbauer asked if any Commissioner had questions regarding the list of ordinances not requiring Commission action:

- Hamilton Township Ordinance 1755-2013
- Lacey Township Ordinance 2013-25

No members of the Commission had questions.

Ms. Wittenberg reported that on Monday, December 9, 2013 a Public Hearing was held to receive comment on the draft MOA between the Commission and the Board of Public Utilities. She said about 115 members of the public spoke. She said the Commission will continue to receive written comment until close of business today.

Commissioner Lloyd advised the Commission that he was contacted yesterday by the State Ethics Commission, which ordered him to recuse himself from further participation in the pipeline matter because of a conflict. Commissioner Lloyd explained why he felt there was no conflict and advised that the State Ethics Commission was aware of his position. Commissioner Lloyd then left the meeting.

Public Comment on Any Matter Relevant to the Commission's Statutory Responsibilities

Over 70 members of the public offered comment on the draft MOA between the Commission and the Board of Public Utilities. The comment received will be part of the formal record and addressed in the Executive Director's report.

Adjournment


Ms. Wittenberg said that at the last P&I Committee meeting a member of the public made false accusations about a member of the Commission staff. The person that made those accusations has since apologized in writing.

Commissioner Witt said no one from the Governor's Office or from this office has asked him how he will vote or advised him how he should vote on the proposed draft MOA for the gas pipeline.

Commissioners proceeded to discuss the process for the pipeline application thus far and the process going forward.

Commissioner Jackson moved to adjourn the meeting. Commissioner Witt seconded the motion. The Commission agreed to adjourn at 2:22 p.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: December 24, 2013