

Disclaimer

These minutes reflect the actions taken by the Commission during its December 9, 2022 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 14, 2022.

PINELANDS COMMISSION MEETING

MINUTES

December 9, 2022

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

Commissioners Participating in the Meeting

Dan Christy, John Holroyd, Jerome H. Irick, Theresa Lettman, Ed Lloyd, Mark Lohbauer, Jonathan Meade, Davon McCurry, William Pikolycky and Douglas Wallner. Also participating were Acting Executive Director Susan R. Grogan, Deputy Attorney General (DAG) Nicolas Seminoff and Governor's Authorities Unit representative Janice Venables.

Commissioners Absent

Alan W. Avery Jr. and Laura E. Matos

Call to Order

Acting Chair Pikolycky called the meeting to order at 9:30 a.m.

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

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

Acting ED Grogan noted that Commissioner Pikolycky was asked to Chair today's meeting since both Chair Matos and Vice Chair Avery could not attend.

The Commission pledged allegiance to the Flag.

## Minutes

Acting Chair Pikolycky presented the minutes from the Commission's November 10, 2022 meeting. Commissioner Irick moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes from the November 10, 2022 Commission meeting were adopted by a vote of 10 to 0.

## Committee Reports

Acting ED Grogan provided a summary of the November 30, 2022 Policy and Implementation (P&I) Committee:

The Committee adopted the minutes from its September 30, 2022 meeting.

The Committee received an update on the progress of the Kirkwood-Cohansey Water Management Amendments to the Comprehensive Management Plan (CMP), which included revised language in the rule proposal following public comments and a new timeline for rule adoption. Some Committee members requested greater specificity of the proposed definition of a non-consumptive use in the rule.

Acting ED Grogan said that staff is meeting with the New Jersey Department of Environmental Protection (NJDEP) before the end of the year to understand how they review water allocation permits for non-consumptive use. Staff will then draft a full re-proposal or notice of substantive change for the Commission's January meeting.

The Committee was briefed on Atlantic County's request to amend a 1998 Memorandum of Agreement (MOA) concerning infrastructure improvements on the West Lakeshore Area of Lake Lenape Park in Hamilton Township. The County hopes to change the area of the Deed of Conservation Restriction (DCR) situated on the lake so that it can reconfigure an old dock and construct a new floating dock system.

The Committee discussed amending Stockton University's 2014 Deed of Conservation Restriction boundaries to release certain areas subject to development restriction. Stockton had been operating in the deed-restricted area since 2018, and Commission staff discovered that physical infrastructure was present in portions of the deed-restricted area. Stockton officials and Commission staff are working to amend the deed-restriction boundaries in a way that allows Stockton to improve and expand its infrastructure without encroaching on protected areas.

Staff also provided an update on upcoming CMP amendments for 2023, including the Black Run plan and the Electric Transmission Line Rights-of-Way (ROW) plan. Staff hopes to bring these draft rules to the Committee in the coming months.

Commissioner Lohbauer provided a summary of the November 30, 2022 Climate Committee meeting:

The Committee discussed its meeting schedule for 2023 and decided that the Committee will no longer meet after the P&I Committee meeting. Staff made a presentation on the NJDEP's upcoming inland flood protection rule proposal, noting that the revised NJDEP standards will automatically be incorporated in the CMP's stormwater regulations. The Committee then discussed possible CMP amendments and identified two initial priorities: revisions to current CMP solar energy facility rules and an analysis of Pinelands management area boundaries with the goal of identifying vulnerable lands within areas designated for growth (Regional Growth Areas, Pinelands Towns and Pinelands Villages).

#### Acting Executive Director's Report

Acting ED Grogan provided information on the following matters:

- In late November the Senate confirmed the nomination of Mark Mauriello to the Commission. Mr. Mauriello will replace Commissioner Gary Quinn, who served on the Commission for almost 11 years. Mr. Mauriello will be sworn in at the Commission's January meeting. Commissioner Jane Jannarone, who served on the Commission for eight years as Cumberland County's appointee, submitted her resignation. A new Commissioner orientation will be scheduled for early 2023.
- The Commission signed a contract with the firm that will prepare the preservation plan for Fenwick Manor. The firm performed a site visit in late November to gather preliminary information for a structural analysis of Fenwick Manor.
- The 2<sup>nd</sup> archaeological symposium was held on November 18<sup>th</sup> and was a successful event. The symposium was funded by the National Park Service Long-Term Economic Monitoring Program grant. There were seven presentations, which are archived on the Commission's YouTube channel: <https://youtu.be/jPB5WXlas5M>
- Staff will participate in an Interagency Council on Climate Resilience meeting on December 13<sup>th</sup>.

Acting ED Grogan said she participated in a U.S. Biosphere working group meeting that included 27 other biosphere regions in the U.S. At the meeting, grant funding opportunities were discussed and how the Commission can be a more active participant in the program.

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

- A Waiver of Strict Compliance was granted by the Commission in 1987 for the development of a single-family dwelling in the City of Estell Manor. A condition of the approval was that the dwelling had to be constructed within 100 feet of the road due to the presence of wetlands. The dwelling was never constructed, and the property has a new owner. The city would like to see the dwelling set back farther

from the road. An amended Waiver application may be submitted to address the matter.

- On November 28<sup>th</sup> staff had a pre-application conference with an applicant interested in establishing an outdoor cannabis grow operation in Galloway Township.
- A public hearing has been scheduled for January 4, 2023 at the request of an applicant who has applied to construct a single-family dwelling in Lacey Township. A Threatened & Endangered (T&E) species survey was conducted and determined the presence of a T&E species on the parcel. The applicant proceeded to the County for a septic permit before addressing the T&E matter.

Stacey Roth, Chief of Legal & Legislative Affairs, said the NJDEP published its Flood Hazard amendments in the New Jersey Register on December 5, 2022. The public comment period closes in February. Staff will review the rules to ensure that there are no inconsistencies with the Commission's rules.

Ms. Roth thanked Commissioners for completing their annual ethics and cannabis training.

Paul Leakan, Communications Officer, said the 2023 Pinelands National Reserve wall calendars are available to the public free-of-charge at Batsto Village, Belleplain State Forest, Bass River State Forest, Brendan T. Byrne State Forest, Whitesbog Village, and at the Commission's headquarters. He noted that the calendars were printed at Rowan College at Burlington County and are funded through the Education and Outreach component of the Pinelands Conservation Fund.

#### Public Development Projects and Other Permit Matters

Acting Chair Pikolycky said the application is for improvements to an existing sanitary sewer pump station in Stafford Township.

Commissioner Lohbauer made a motion Approving With Conditions an Application for Public Development (Application Number 1995-1214.010) (See Resolution #PC4-22-43). Commissioner Irick seconded the motion.

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

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

Acting ED Grogan read the list of applications that the public could comment on.

Michelle Forman of Pemberton Township asked for information about the amount of the application fee for the sidewalk installation application in Pemberton and if the town had a pre-application meeting with Commission staff.

Director Horner said he did not believe a pre-application meeting was held and that the application fee information could be provided after the meeting. He advised Ms. Forman that this is not the forum to ask questions. He said this portion of the meeting is to provide the public with time to comment on applications.

Ms. Forman asked if contaminants were found at the site of Berkley Township landfill because she said Pemberton Township is proposing a similar project to cap the landfill and install solar. She also asked for an explanation of a Waiver of Strict Compliance.

Director Horner said a Waiver of Strict Compliance can be granted by the Commission if for some reason an application is not meeting one of the Commission's standards. He said in order for an applicant to qualify for a Waiver, specific conditions must be met. He added that he would be happy to discuss Berkeley Township's landfill after the meeting.

#### Ordinances Not Requiring Commission Action

Acting Chair Pikolycky read the list of ordinances:

- Galloway Township Ordinance 2093-2022
- Lacey Township Ordinances 2022-03, 2022-25, and 2022-33 and
- Woodbine Borough 2022 Bicycle and Pedestrian Master Plan

Acting ED Grogan said the ordinances were reviewed by staff and do not raise any substantial issues with the CMP. She noted that Galloway's ordinance relates to an amended redevelopment plan in an existing industrial zoning district. Lacey Township's ordinances pertain to electric vehicle equipment and parking spaces as part of the model ordinance from the Department of Community Affairs.

#### Other Resolutions

Acting Chair Pikolycky presented a resolution setting Commission meeting dates for 2023.

Commissioner Lloyd made a motion Scheduling Regular Pinelands Commission Meeting Dates for 2023(See Resolution #PC4-22-44). Commissioner Lohbauer seconded the motion.

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

#### General Public Comment

Daniel James, Mayor of Washington Township, said an application was submitted to the Commission for the placement of a cell tower to be located at the fire house. He expressed the importance of having the cell tower for emergency services communication. He said Washington Township provides emergency response to visitors at Batsto in Wharton State

Forest. He suggested the Commission consider re-examining and updating its cell tower regulations.

Commissioner Irick suggested that the emergency authorization provisions in the CMP may help in this situation.

Acting ED Grogan said emergency authorization could be an option but first staff will determine the status of the Township's application.

Alice Henry of Mays Landing said a developer has purchased a property in Hamilton Township's RD-5 zone and is planning to develop the forested site with sports fields, stadiums, and hotels. She said she is very concerned that the development is not consistent with current zoning. She said there are known T&E bird species in the area. She said the now vacant raceway near the Hamilton Mall is better suited for the type of proposed development. She said a petition has been started by the Pinelands Preservation Alliance (PPA) and has over 600 signatures.

Heidi Yeh of the Pinelands Preservation Alliance said they are working with residents regarding the Pomona Woods Reserve issue that Ms. Henry spoke about. She said there is an airport in the vicinity of the proposed development and there have been known airplane crashes. She said the former racetrack is a better location for the type of development being proposed. She added that PPA is working at the state level on policy redirecting redevelopment away from forested parcels and to more appropriate locations, such as already disturbed lands.

Jason Howell of the Pinelands Preservation Alliance said that the Commission should make more information available to residents when a town approaches the Commission regarding development or redevelopment proposals, particularly those that don't work under current zoning. He said a property owner is working with the Green Acres program to preserve approximately 1,900 acres in Mullica Township. There may be an ordnance on the site stemming from a World War I ammunition plant. He said it may be helpful if the Commission could write a letter of support. He said that illegal dumping in the Pinelands on state-owned lands continues to be a problem. He said PPA will lead a clean-up on December 17<sup>th</sup>. He noted that a recent cleanup generated 8,000 pounds of garbage.

Acting ED Grogan said this was the first time she had heard of the Green Acres parcel and would be happy to write a letter on behalf of the Commission. She asked Mr. Howell to provide her with additional information.

Michelle Forman of Pemberton Township asked a variety of questions related to the following: who is responsible for illegal dumping, the purchasing of credits by developers and if solar development has ever been approved in the Pinelands.

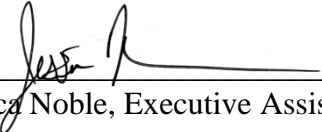
Ms. Roth said that property owners are responsible for maintaining their land. She added that the Commission is a regional planning agency and does not own land.

Acting ED Grogan advised that there are many solar energy facilities in the Pinelands Area. She said staff would be happy to discuss any questions after the meeting.

Adjournment

Commissioner Irick moved to adjourn the meeting. Commissioner Holroyd seconded the motion. The Commission agreed to adjourn at 10:22 a.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: December 14, 2022