

Disclaimer

These minutes reflect the actions taken by the Commission during its March 10, 2023 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 March 17, 2023.

PINELANDS COMMISSION MEETING

MINUTES
March 10, 2023

All participants were either in-person or present via Zoom conference and the meeting was livestreamed through YouTube: <https://www.youtube.com/watch?v=U1uMXDWlfFE>

Commissioners Participating in the Meeting

Nicholas Asselta, Alan W. Avery, Jr., John Holroyd, Jerome H. Irick, Ed Lloyd, Mark Lohbauer, Mark Mauriello, Jonathan Meade, William Pikolycky, Douglas Wallner and Chair Laura E. Matos. Also participating were Executive Director Susan R. Grogan, Deputy Attorney General (DAG) Nicolas Seminoff and Governor's Authorities Unit representative Janice Venables.

Commissioners Absent

Dan Christy & Theresa Lettman

Call to Order

Chair Matos called the meeting to order at 9:36 a.m.

DAG Seminoff 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 February 10, 2023 meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Pikolycky seconded the motion.

The minutes from the February 10, 2023 Commission meeting were adopted by a vote of 11 to 0.

Chair Matos read a letter from former Commissioner Gary Quinn in which he expressed his appreciation for the gift and said that it was a pleasure to work with staff for eleven years.

Committee Reports

Chair Matos provided a summary of the February 24, 2023 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes of the January 27, 2023, meeting.

The Committee was briefed on a proposed Memorandum of Agreement (MOA) regarding the Pemberton Lake Trail in Pemberton Township. Representatives from the Pinelands Preservation Alliance (PPA) and Pemberton Township gave a joint presentation on the benefits of constructing a handicap-accessible pathway along the existing trail route. The trail represents a deviation from Pinelands Comprehensive Management Plan (CMP) standards because it would involve surfacing in a wetlands buffer. The presentation included a description of the type of surface that would be used to minimize environmental disruption and identified a deforested area that would be restored and revegetated as an offset. It was noted that because a portion of the property is owned by New Jersey Department of Environmental Protection (NJDEP), the Department would also need to be a party to the MOA. The Committee was supportive of the proposal and voted to recommend the matter to the full Commission.

The Committee received a presentation on the Commission's landfill closure assessment process that included CMP regulations for capping solid waste landfills, described the standard methods for managing and monitoring leachate and other hazardous byproducts of landfills, identified the significant ecological risks to wetlands and groundwater tables from legacy landfills, and broke down the typical screening process meant to identify contaminants in the ground.

Commissioner Lohbauer provided a summary of the February 15, 2023 Climate Committee meeting:

The Committee received a series of staff presentations on state initiatives, including NJDEP's Inland Flood Protection rule proposal, the Extreme Heat Resilience Action Plans being developed for the Interagency Council on Climate Resilience and NJDEP's Water Supply Plan update.

Staff also updated the Committee on various office initiatives, including the purchase of battery-powered grounds equipment, potential grant funding for an electric vehicle charging station, and a Request for Quote (RFQ) for new field work vehicles.

Executive Director's Report

ED Grogan provided information on the following matters:

- On March 7th, staff held the first-ever Permanent Land Protection Summit, where approximately 30 participants engaged in discussions about trends in land preservation and acquisition. Martha Sullivan Sapp (daughter of Richard J. Sullivan) from NJDEP's Green Acres Program attended the summit and provided information on New Jersey' Statewide Comprehensive Outdoor Recreation Plan (SCORP). The group also discussed land stewardship and how to ensure that preserved lands maintain their original characteristics.
- The re-proposal of the Kirkwood-Cohansey water management rules were filed with the Office of Administrative Law and will be published in the New Jersey Register on April 3, 2023.
- A Request for Proposals (RFP) was issued on March 1st to gain technical assistance in reviewing future amendments to local communication facilities (also known as cell towers) in the Pinelands Area. Staff anticipate receiving one or more amendments to the Comprehensive Plan the Commission approved years ago and want to be prepared when that occurs.
- The consultants preparing the Fenwick Manor Preservation Plan were at the office in late February and again in early March, and they performed some excavation of the two front fireplaces to determine the cause and extent of the cracks. They will be issuing a final plan on March 17th and will review the findings of that plan at the March 21st Personnel and Budget Committee meeting. The final plan will include cost estimates associated with the recommendations. An April deadline for a capital grant application from the NJ Historic Trust is keeping the timeline extremely tight.

Commissioner Lohbauer said the February Management Report notes a residential application that is seeking relief of the required 200-foot forest fire fuel break. He said he was unaware of the CMP requirement that residential development of 100-dwelling units or more that must maintain a 200-foot fuel break in high or extreme high hazard areas (7:50-6.124 (a) 5). He added that he would like the Climate Committee to have a discussion regarding this matter. He said that houses should not be built in high-fire areas and the forest should not be jeopardized because of it. He said he would also like to discuss the expiration of Commission approvals.

ED Grogan said staff is preparing an analysis of management area boundaries for the Climate Committee. The analysis will include flood hazard and fire hazard area mapping. She said Commissioner Lohbauer's discussion point will fit in with the discussion.

Commissioner Irick asked for additional information on the South Toms River Borough application to close the municipal landfill, as noted in the February management report.

Chuck Horner, Director of Regulatory Programs, said South Toms River Borough has applied to cap its closed landfill. He said staff met with Borough officials in early February. He said additionally the Borough is proposing to build 30 affordable housing units on the same site as the closed landfill and municipal complex. The site is approximately 40 acres. He added that he believes the project will be served by municipal water and sewer.

Director Horner said the February management report includes a wide range of applications that staff review. He said the applications are much more diverse than a typical large residential development or a large commercial project.

Director Horner explained the reason why the Commission typically does not see applications being recommended for denial. He said the staff works very hard providing guidance to municipalities whether an application could meet the Commission's rules. He said there are plenty of projects that will not work and a town either discontinues a proposal or they revise the application to meet the standards of the CMP. He said some towns choose to have pre-application meetings with staff to determine the feasibility of a project.

ED Grogan said the same process occurs with municipal master plans and ordinances. Staff members spend a significant amount of time working with the municipality prior to making a recommendation to the P&I Committee. She said sometimes an ordinance will never be consistent with the CMP and staff lets the municipality know that a recommendation for approval cannot be made.

Commissioner Lloyd asked if it was possible to report this information so Commissioners can gain more of an understanding of the variety of proposals and applications that may or may not come to fruition. He said it would be helpful to include this information in the management report.

ED Grogan said she would research if the current tracking system would be able to provide the data.

Commissioner Avery said it's important to provide discretion to the municipalities, counties and other state partners that the Commission interacts with.

Commissioner Mauriello suggested including the applicant's name in the management report to prevent a possible conflict of interest. He also said it would be helpful to know the type of Threatened & Endangered species referenced in the management report.

Ms. Roth said on March 31st, the State Ethics Commission will be sending out an email about filing 2023 Financial Disclosure Statements.

Paul Leakan, Communications Officer, said that close to 500 participants have signed up for the 34th Annual Pinelands Short Course.

Pemberton Lake Accessible Trail Memorandum of Agreement (MOA)

ED Grogan said the CMP authorizes the Commission to enter into an MOA with another public agency when a standard of the plan cannot be met. The proposal must include an offset to ensure protection of Pinelands resources. The MOA process includes 13 steps. She said Pemberton Township and the PPA are here to brief the full Commission on the proposal, step 7 in the process. She said after the presentation she will be looking for a general consensus of the Commission to authorize staff to move forward with the MOA process. (See attached presentation slides.)

Carleton Montgomery, Executive Director of the Pinelands Preservation Alliance, said he is here with Pemberton Township Administrator Dan Hornickel to provide the details and benefits of improving the existing trail system at Pemberton Lake. He said there is a large population of people with mobility issues, both in and out of the Pinelands who cannot enjoy the many open spaces New Jersey has to offer. He said the goal is to create more accessible trails. He listed the reasons why this is a suitable proposal for the site, which will turn the existing trail into a flatter and more stable surface for people with mobility challenges:

- Support of Township officials
- Trail is easily accessible from the parking lot
- Trail is short but scenic
- The trail is existing and will not require removal of vegetation

Mr. Hornickel said the location of the trail is ideal for the general public traveling to the shore. He said he would like the trail to be a destination for people with mobility challenges. He noted that Pemberton Township has a number of disabled veterans. He said the Township has committed its own resources to provide garbage cans on the Wildlife Management Area portion of the property and will be installing handicap parking spaces at the trailhead.

Mr. Montgomery displayed photographs on the SmartBoard of the boardwalk proposed in the wetlands buffer portion of the trail that other state parks have utilized. He said a sandy area of the Wildlife Management Area is in need of restoration. He said part of the plan is to construct barriers to permit wheelchairs but not motorcycles. He said the stone that will be used on the trail will not change the chemistry of the soil or water quality. (See attached presentation slides.)

Commissioner Asselta raised concerns about obstructions in the trail and the ongoing maintenance.

Mr. Hornickel assured Commissioner Asselta that the property will be evaluated foot by foot and cleaned up. He said the Township has 17 parks that it currently maintains. He said township public works staff understand the work that is involved in caring for a trail.

Commissioner Irick suggested that there be plenty of handicap accessible parking spots at the site.

Mr. Montgomery added that this proposal was made possible through the NJ Division of Disability Services Healthy Communities grant.

Commissioner Mauriello said that the stone material should be sourced from a licensed quarry to ensure that it is clean.

ED Grogan said the gravel sourcing could be written into the agreement.

Chair Matos thanked PPA and Pemberton Township for sharing the proposal and said that pending authorization by the Commission, an MOA for this project will be a great pilot and example of a unique partnership benefitting the public. All Commissioners indicated their agreement that the MOA process move forward.

Commissioner Meade left the meeting.

Lastly, ED Grogan reviewed the draft schedule and next steps in the process, which will include a public hearing. (See attached slide). She said Ms. Roth will draft the agreement and work with Pemberton Township and the NJDEP, both of whom will be parties to the agreement.

Public Development Projects and Other Permit Matters

Chair Matos introduced a resolution recommending approval of the following three applications: the installation of artificial turf at the Oakcrest High School in Hamilton Township, a two-lot subdivision in Monroe Township and the demolition of a juvenile detention building in Pemberton Township.

Commissioner Pikolycky made a motion Approving With Conditions Applications for Public Development (Application Numbers 1985-0204.010, 1989-0349.023 & 2022-0135.001) (See Resolution # PC4-23-09). Commissioner Wallner seconded the motion.

Commissioner Irick noted that his daughter-in-law is employed as a teacher at Oakcrest High School. He wanted to be sure there was not a conflict.

Ms. Roth, the Commission's Ethics Liaison Officer, said voting on the application would not present a conflict.

Commissioner Avery asked if the juvenile detention center was reviewed for cultural resources.

Mr. Horner said the staff archaeologist reviewed the application and no cultural significance was identified.

Commissioner Asselta said artificial turf is more expensive than natural turf and additional maintenance must be undertaken. He asked if that was evaluated.

Director Horner said the application for an artificial turf field was reviewed by staff and met the standards of the CMP. He said the CMP does not require the evaluation of cost.

Commissioner Mauriello asked if staff reviewed the juvenile detention center application for lead paint abatement.

Director Horner said no, building materials are not part of the application review process. He said he would reach out to Burlington County and ask if lead abatement is part of the demolition contract.

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 reminded the public and Commissioners that public comment is not an opportunity for questions and answers.

Michelle Forman of Pemberton Township requested the acreage for the two Waiver of Strict Compliance applications, each proposing the development of one single family dwelling in Pemberton Township.

Director Horner said that he would provide that information after the meeting.

Ordinances Not Requiring Commission Action

Chair Matos read the list of Ordinances:

- Buena Vista Township 2022 Master Plan Reexamination Report
- Buena Vista Township Ordinances 123-2022 & 124-2022
- Corbin City Ordinance 13-2022
- Hamilton Township Ordinances 1963-2021, 1989-2022 & 2023-2022
- Maurice River Township Ordinances 718 & 720

ED Grogan said once again a number of the ordinances reviewed this past month relate to the Department of Community Affairs (DCA) model ordinance for electric vehicle charging equipment. She noted that both Buena Vista Township and Hamilton Township ordinances establish provisions for cannabis facilities.

Commissioner Asselta asked if staff consult with the energy providers when reviewing cannabis-related ordinances.

ED Grogan said these are enabling ordinances and checking with the energy provider to determine if there is an adequate power supply is not part of the process. Those questions might come up during review of actual development applications.

Other Resolutions

Chair Matos introduced a resolution to approve the Commission's 2022 Annual Report.

Commissioner Lohbauer made a motion To Approve the Pinelands Commission's 2022 Annual Report (See Resolution # PC4-23-10). Commissioner Irick seconded the motion.

ED Grogan highlighted the important accomplishments the Commission completed in 2022. Link to presentation:

<https://www.nj.gov/pinelands/home/presentations/Annual%20Report%202022%20Presentation%20for%20PC%20Meeting.pdf>

Commissioner Irick asked about the price of Pinelands Development Credits.

ED Grogan said the average price per right is just over \$18,000.

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

General Public Comment

Michelle Forman, Pemberton Township said she was surprised that Commissioners did not ask questions about the Burlington County application to demolish the juvenile detention center. She asked if the Commission knows what the county plans to do with the parcel, because the public has a right to know. She said she supports adding a list of pre-application meetings to the monthly report.

Fred Akers, Great Egg Harbor Watershed Association (GEHWA), congratulated Sue Grogan as the new Executive Director of the Pinelands Commission. He provided details of how the GEHWA came to be. He said in the late 1980's, residents in Atlantic County were seeking extra protection for the Great Egg Harbor River. Congressman Hughes helped and the Great Egg Harbor was designated as a Wild and Scenic River, the first designation that had no federal land. He said local people in 12 Pinelands towns agreed to participate in managing the designation by creating a river plan and a River Council. The Council began in 2000. He said the GEHWA supports the Council, which meet six times a year. The GEHWA has a cooperative agreement with the National Park Service and funding that provides the watershed association to have three staff members. He asked for the Commission's help regarding the Gravelly Run stream that is experiencing damage due to illegal dirt bikes and All-Terrain Vehicles (ATVs). He said power line right-of ways need barricades to protect wetlands. He said he is making slow progress with Atlantic City

Electric. He said ATV and dirt bike damage are both a Pinelands and statewide issue. He said he is currently assisting Hamilton Township with adoption of an ordinance pertaining to a law the state passed in 2022 (S4080). He said should an operator of an ATV or dirt bike be caught riding illegally, the ATV can be confiscated, deemed contraband and destroyed, but the municipality must adopt an ordinance to enforce this law. He added that the GEHWA is also assisting with the redevelopment of the BL England site, which may need dredge materials.

Commissioner Asselta suggested that Mr. Akers work with Hamilton Township Officials to discuss the possibility of reallocating resources from ticketing motorists to monitoring illegal ATV use.

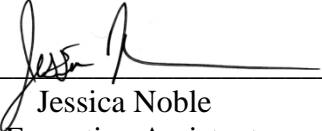
Adjournment

Commissioner Lohbauer said he would like to discuss the illegal ATV issue at an upcoming P&I Committee meeting and the possibility of creating a model ordinance to share with Pinelands municipalities. He said he would like the discussion to include publicizing the law and risk of illegal ATV use in New Jersey to out-of-state riders.

He said the Commission issues recreation permits for enduro events and over the next month, there are three events scheduled. He suggested to Commissioners that they take the time to observe an event and see the effects.

Commissioner Pikolycky moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 11:34 a.m.

Certified as true and correct:



Jessica Noble
Executive Assistant

Date: March 17, 2023



Process for an Intergovernmental Memorandum of Agreement

February 24, 2023

Memoranda of Agreement

The CMP authorizes the Commission to enter into MOAs with public entities for two purposes:

- To establish streamlined permitting procedures
- To authorize deviations from CMP standards, provided measures are included to ensure equivalent protection of Pinelands resources

History of MOAs

- The Commission has entered into 23 new or amended MOAs since 2002
 - 13 permit streamlining MOAs
 - 10 deviation MOAs
 - the majority dealt with the expansion of existing public facilities
 - Offsetting measures resulted in permanent protection of 9,740 acres in the Pinelands Area

Process for Consideration of an MOA

- Originally developed in 2008, an expanded 13-step process was established in 2016 by the Commission's MOA Policy Advisory Committee
- The process applies to all proposed MOAs that authorize deviations from CMP standards
- MOAs may only be executed between the Commission and other public agencies

Process for Consideration of an MOA: Recommended Changes

Step 1. Commission staff meets with the public agency to discuss a proposed development plan. If all CMP standards cannot be met, staff may identify appropriate options for the agency's consideration, including:

- modification or relocation of the project
- a waiver of strict compliance
- an MOA

Process for Consideration of an MOA: Recommended Changes

Step 2. The Executive Director and Commission Chair meet with the public agency to discuss the proposed development project and the process and potential for an MOA.

Step 3. The public agency submits a written proposal to the Executive Director

- Conceptual site plan, public purpose, project partners and financing, offsetting measures

Process for Consideration of an MOA: Recommended Changes

Step 4. The Executive Director advises the public agency of the need for any additional information

Step 5. The public agency briefs the P&I Committee on its proposal

Step 6. The P&I Committee makes a recommendation as to whether the Commission should consider entering into the proposed MOA

Process for Consideration of an MOA: Recommended Changes

Step 7.

- The Executive Director briefs the full Commission at its next meeting on the public agency's proposal and the P&I Committee's recommendation.
- The Commission determines whether to authorize the staff to move forward with the administrative process and draft an MOA. If yes, the Commission provides a schedule for development and consideration of the MOA.

Process for Consideration of an MOA: Recommended Changes

Step 8. The Executive Director assigns appropriate staff member(s) to work with the public agency and determines the need for any escrow payments. Staff prepares a draft MOA and shares/discusses it with the public agency.

Step 9. Staff consults with and briefs the P&I Committee on the draft MOA.

Process for Consideration of an MOA: Recommended Changes

Step 10. Staff conducts a public hearing on the MOA and prepares a report and recommendation.

Step 11. Staff reviews the MOA, report and recommendation with the P&I Committee.

Step 12. The P&I Committee makes a recommendation to the full Commission.

Step 13. The Commission considers the resolution at its next meeting.

Questions?





Pemberton Lake

Accessible Trail

PROPOSAL BY PEMBERTON TOWNSHIP AND
THE PINELANDS PRESERVATION ALLIANCE



Pemberton Bypass

Rancocas Conservancy

Pemberton Township

Division of Fish and Wildlife

Magnolia Road























Key Points

- There is a public need for more accessible trails
- This park is easy to reach for Pemberton residents
- The lake and trail are very scenic
- Uses existing trail with no need to widen or remove vegetation
- Stone will stabilize surface and not change soil chemistry or water quality
- PPA and Fish and Wildlife will restore damaged area

Suggested Schedule for Consideration of MOA with Pemberton Township and NJDEP

3/10/23: Commission authorization to proceed with MOA

5/26/23: P&I Committee reviews draft MOA

6/7/23: Public hearing held

6/30/23: P&I Committee reviews staff report and
recommendation

7/14/23: Commission action on MOA