

Disclaimer

These minutes reflect the actions taken by the Commission during its November 14, 2014 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 November 24, 2014.

PINELANDS COMMISSION MEETING<sup>1</sup>  
Richard J. Sullivan Center  
Terrence D. Moore Conference Room  
15 Springfield Road  
New Lisbon, New Jersey

MINUTES

**November 14, 2014**

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bill Brown, Joe DiBello, Sean Earlen, Ed Lloyd, Paul E. Galletta, Richard Prickett, Robert Jackson, Jane Jannarone, Ed McGlinchey, Gary Quinn, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison Amy Herbold and Deputy Attorney General Kristen Heinzerling.

Commissioners Absent

D'Arcy Rohan Green.

Chairman Lohbauer called the meeting to order at 9:38 a.m.

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Wittenberg called the roll and announced the presence of a quorum. (There were 14 Commissioners present.)

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

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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.

## Minutes

Chairman Lohbauer presented the minutes (open and closed session) from the October 10, 2014 Commission meeting. Commissioner Ashmun moved the adoption of the minutes. Commissioner Jackson seconded the motion.

The minutes of the October 10, 2014 Commission meeting were adopted by a vote of 14 to 0.

## Other

Chairman Lohbauer presented Mark DeLorenzo with a certificate for 10 years of service. Mr. DeLorenzo works as a GIS Specialist at the Commission.

## Committee Chairs' Reports

### Personnel & Budget Committee

Vice Chairman Avery said the October 28, 2014 Personnel and Budget (P&B) Committee meeting was canceled.

### Policy & Implementation Committee

Commissioner Earlen updated the Commission on the October 31, 2014 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes from the September 26, 2014 meeting.

The Committee recommended Commission approval of Buena Vista Township Ordinance 17-2014 (revised sign standards).

The Committee recommended the Commission enter into a permit streamlining Memorandum of Agreement (MOA) with The Richard Stockton College of New Jersey to allow certain development to occur on campus without the obligation to submit individual development applications.

The Committee met in closed session to discuss litigation matters.

### Executive Director's Reports

Ms. Wittenberg updated the Commission on the following:

- The Commission, along with the New Jersey Department of Environmental Protection (NJDEP), participated in its annual World Water Monitoring Challenge at Batsto Lake on October 24.
- The Commission's part-time Cultural Resource Planner, Dr. Barry Brady, will be retiring at the end of November. The Commission is currently evaluating options for hiring a replacement.

Mr. Larry Liggett provided an update on the following:

- The Cape May County Municipal Utilities Authority (CMCMUA)/ Woodbine Leachate study is complete. The CMCMUA Board will meet next week to discuss which option they will proceed with.
- Mr. Ed Wengrowski will present the results of the rapid landfill assessment at the next Pinelands Municipal Council meeting. The Council will meet on Tuesday, November 25, 2014 in Estell Manor.
- Staff met with Winslow Township to discuss the rezoning of the Township's Regional Growth Area.

Mr. Chuck Horner provided an update on the following:

- An application has been submitted to the Commission for the use of the abandoned Lenox china site in Galloway Township. The application is proposing a manufacturing facility at the site.
- A letter was recently sent to Stafford Township to advise the Township of the next steps to proceed with a Waiver of Strict Compliance for a compelling public need. The Township is proposing a stormwater management basin on the south side of Route 72 to alleviate flooding issues in Ocean Acres. The township would need a Waiver because the application does not meet the Commission's permitted land use standards.
- The Commission's staff has been spending many hours dealing with phone calls from residents in Buena Vista Township who are dissatisfied with the Township for various reasons. Most of the issues being raised by the public are not within the Commission's purview.

Commissioner Ashmun said she has many questions about Stafford Township and asked Mr. Horner about the next steps.

Mr. Horner said once the application is complete it will come before the Commission for a vote.

Ms. Wittenberg requested that Commissioner Ashmun inform staff of her questions.

Commissioner Lloyd asked Ms. Wittenberg if the approach to the basin application was the method agreed to by the Policy and Implementation Committee.

Ms. Wittenberg noted that the Committee could not reach consensus on one approach.

#### Public Development Projects and Other Permit Matters

Chairman Lohbauer said there are no Public Development applications or Waivers of Strict Compliance on this month's agenda.

Chairman Lohbauer asked for a motion to authorize the Commission to enter into a Memorandum of Agreement (MOA) with Stockton College.

Commissioner Galletta moved the adoption of a resolution Authorizing the Executive Director to Execute a Permit Streamlining Memorandum of Agreement between The Richard Stockton College of New Jersey and the New Jersey Pinelands Commission (See Resolution # PC4-14-37). Commissioner Earlen seconded the motion.

Ms. Stacey Roth said this Memorandum of Agreement will allow Stockton College to engage in an alternate permitting process for the designated development areas set forth in the College's 2010 Master Plan. She said the MOA will allow for an expedited review by eliminating the submission of a public development application. She noted that this is not a deviation MOA, and all development will comply with the Comprehensive Management Plan (CMP).

She said the Commission approved Stockton's Master Plan in September 2010. The Plan defines 20 years of development and it designates approximately 900 acres that have been preserved both on and off campus to protect threatened and endangered species and wetlands.

She said this MOA would also approve the College's 2010 Stormwater Management Master Plan. As the College proceeds with each development project, the MOA requires the details of the final stormwater plan to be submitted to the Commission.

Ms. Roth said during the public hearing for the MOA, 11 alleged violations were raised. The Commission staff investigated each allegation, of which only four were found to be violations. The College worked with Commission staff to resolve those violations.

Ms. Roth said that as a result of the October 31, 2014 Policy and Implementation Committee meeting, language was added to the MOA to clarify the Commission's role in suspending and reinstating the MOA. (See page 8 of the MOA, item 8).

Commissioner Jackson raised concerns over Exhibit C, which has a small area depicted as a storage, staging and stockpiling area.

Ms. Roth said that the stockpiling of hazardous materials in the Pinelands is not permitted.

Commissioner Jackson said he was not just concerned about hazardous materials but about construction materials. He asked if there was a containment fence.

Mr. Horner said under the provisions of the MOA, if the College chooses to use this area for storage, it would constitute development and would require an application. Staff would review the application to ensure all standards of the CMP are being met.

Commissioner Ashmun said she would rather have the Commission vote to reinstate the MOA should a violation occur, rather than merely "concur" with the Executive Director's recommendation.

Ms. Roth said should the College seek reinstatement, a resolution would need to be voted on by the full Commission.

Commissioner Ashmun said as long as concurrence means Commission action, she is okay with it.

Commissioner McGlinchey asked if the Executive Director has the ability to resolve a violation should it occur before suspending the MOA. He said sometimes what appear to be violations are actually just mistakes.

Ms. Wittenberg said yes, that is why the MOA uses the term “outstanding unresolved” violations.

Commissioner Galletta said he is in favor of entering into this MOA with Stockton College.

Ms. Wittenberg pointed out that Dr. Herman Saatkamp, President of Stockton College, was in the audience.

Chairman Lohbauer said he believes all parties will be served well by this MOA. He thanked Stockton College, the public and staff for all of their efforts to make this happen.

The Commission adopted the resolution by a vote of 14 to 0. All voted in favor.

#### Resolutions Relating to Municipal Ordinances

Chairman Lohbauer asked for a motion regarding Buena Vista Township Ordinance 17-2014.

Commissioner Galletta moved the adoption of a resolution Issuing an Order to Certify Ordinance 17-2014, Amending Chapter 115 (Development Regulations) of the Code of the Township of Buena Vista (See Resolution # PC4-14-38). Commissioner Brown seconded the motion.

The Commission adopted the resolution by a vote of 14 to 0. All voted in favor.

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

Jim Fraser, an Egg Harbor Township resident, provided comments on Application 1984-0314.016. He expressed his dismay that Egg Harbor Township constructed a 2,000 square foot deck to the existing restaurant at the municipal Golf Course without application to the Commission. He said the Township knows better and should suffer some consequence.

Fred Akers, a resident of Buena Vista Township, said volunteers are looking out for Buena Vista Township just as they did at Stockton College. He said the Township has violated its Land Use Code. He said making an application to fix a violation does not necessarily fix it.

Fran Brooks, a Tabernacle Township resident said she forwarded a court case on sign ordinances (E&J Equities) to Ms. Roth. She said she doesn't understand why the Commission approved Buena Vista's sign ordinance before engaging in research about digital signs. She said approval without proper research and development is not a good process. She also said she is not in favor of closing the public comment period before a decision is made.

#### Ordinances Not Requiring Commission Action

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

- Manchester Township Ordinances 14-015 & 14-017
- Maurice River Township Ordinance 633

No members of the Commission had questions.

#### Other Resolutions

Chairman Lohbauer presented a resolution To Accept the Fiscal Year 2013 Audit Report.

Commissioner Lloyd moved the adoption of a resolution To Accept the Fiscal Year 2013 Audit Report (See Resolution # PC4-14- 39). Commissioner Prickett seconded the motion.

Chairman Lohbauer said there was one finding in the FY13 Audit Report. He said the finding was due to inadequate application of internal controls. The Auditors recommended a remedy and we have proceeded with their recommendation.

Commissioner McGlinchey said the Audit Committee disagreed with the finding.

Commissioner Prickett asked staff to elaborate on the finding.

Ms. Jessica Lynch said the Auditors requested that each account in the Pinelands Conservation Fund be listed as separate line items, rather than one lump sum.

Commissioner Prickett said the Auditors would like the Commission to procure a new accounting software.

Ms. Wittenberg said staff is actively researching a new accounting program.

The Commission adopted the resolution by a vote of 14 to 0. All voted in favor.

Presentation

Chairman Lohbauer said he invited New Jersey Future to present the findings of its recently released report: “Growing Smart and Water Wise: Protection Water Resources in the Growth Areas of the New Jersey Pinelands.”

Ms. Chris Sturm, Senior Director of State Policy at New Jersey Future introduced herself and thanked the Commission for inviting them to make a presentation today. She also introduced Dr. Dan Van Abs, a professor at Rutgers University who worked on the research and the study’s policy recommendations.

Ms. Sturm said the study was funded by the William Penn Foundation, and NJ Future partnered with the Pinelands Preservation Alliance. She said the study focused on three areas with significant growth areas: Medford/Evesham, Hammonton and Tuckerton/Little Egg Harbor. She said water resources are being degraded and that is why there is a need to strengthen existing regulations and enforce the regulations currently in place. She said an alternative to using the Kirkwood-Cohansey needs to be developed.

Dr. Dan Van Abs said he performed the research along with his team; however no new field work was undertaken. The study analyzed existing data from a variety of sources. He said in most instances the HUC 14 watersheds were studied. See Presentation slides for further details. Link to the report: <http://www.njfuture.org/research-publications/research-reports/growing-smart-water-wise/>

Ms. Sturm reviewed the recommendations of the report. She said she envisioned the Commission spearheading the implementation of the recommendations.

Commissioner Galletta said he enjoyed the presentation and agreed with many of the recommendations but said he would like to know how much water withdrawal is too much.

Dr. Van Abs said the report provides the science. A policy decision needs be made on the threshold. The last question is what tool or model should be utilized when reviewing an actual permit application.

Carleton Montgomery, Pinelands Preservation Alliance, said the key issue is at what level of impact do you get unacceptable results and at what geographical scale do you judge those results. He said the Commission will be the leader in protecting the Kirkwood-Cohansey aquifer. He would like to see protective measures put in place within the Commission’s jurisdiction and hopefully the state will follow.

Commissioner Earlen asked if the study researched the impacts the more stringent regulations to stormwater and water allocation would have on the farmers and businesses in the area.

Ms. Sturm said the funding did not allow for that. She said she knows that agricultural water use will be a big part of the challenge.

Commissioner Ashmun said she believes there is another part of this issue that needs to be considered and that is climate change.

Commissioner Jackson said it is crucial to educate the public about water conservation.

Commissioner Lloyd questioned if the Commission has the authority under the current statute to implement the report's recommendations.

Dr. Dan Van Abs said based on his understanding of the Water Supply Management Act, the Commission has the ability to pursue the recommendations. He further discussed water allocation permits.

Commissioner Lloyd asked if there was a breakdown by sector of water usage in the Pinelands.

Dr. Van Abs said NJDEP does gather that information but they are less certain of the agricultural data than then the public water supply data.

Commissioner Avery asked staff if there were any water allocations permits under review.

Mr. Horner said at the moment, the Commission does not have any new well applications under review or requests for increases in water allocations.

Commissioner McGlinchey said the application of salt used to melt snow and ice on the roadways is a great pollutant to groundwater.

Chairman Lohbauer asked about the origin of mercury found in water sources.

Dr. Van Abs said the primary source of mercury stems from air deposition from out of state coal-fired energy plants. He said it is a national debate.

Chairman Lohbauer thanked the Ms. Sturm and Dr. Van Abs for the presentation.

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

Fran Brooks of Tabernacle Township, asked about the status of the public comment procedures.

Commissioner Ashmun said we continue to work on them.

Fred Akers said he recalled a time when Stockton put pressure on the Commission to increase the Regional Growth Area because at that time it was the only area in which the College was able to expand. Since then, the College has expanded into Hammonton, purchased Seaview and may be purchasing the Showboat Casino.

Bob Filipeczak of Linwood, NJ said he is against the pipeline and burning fossil fuels. He supports clean energy such as solar and wind. He said the BL England site is ideal for either solar and/or wind energy. He said trash is a renewable resource and is in favor of co-firing plastic with coal.

Rich Bizub of the Pinelands Preservation Alliance said the New Jersey Geological Survey (NJGS) provides the technical support and reviews modeling for water allocation permits. He said that NJGS only reviews requests for water allocation permits to determine whether they would result in drawdown of over one foot. He said dropping the Kirkwood Cohansey aquifer by one foot could have a highly negative effect on wetlands. He said he went on the internet and typed in Tuckahoe Turf Farm soccer and came across a calendar of events. He said he noticed there is a tournament scheduled for April 2015.

Lee Rosenson of the Pinelands Preservation Alliance and New Jersey Audubon Society said he believes NJDEP makes the final decisions on water allocation permits. He recommended that the Commission explore who has jurisdiction over this matter. He said don't waste time waiting for more science on the water debate. He recommended moving forward with water conservation measures now.

Fred Akers said he recently attended the Gloucester County Master Plan meeting. He said he learned that the County plan was so old it was beginning to hinder municipal master plans.

Mr. Liggett added that Commission staff recently attended a similar meeting at Gloucester County to discuss the Master Plan and water related issues.

Lee Rosenson said it was noted recently that there are approximately 30,000 septic systems in the Pinelands and he was curious what kind of threat the septic pose to the water.

Commissioner McGlinchey said before the Commissions breaks into closed session he wanted to touch on Mr. Fraser's comments. He said he reviewed some of the correspondence between the Commission and Egg Harbor Township and was bothered that the Township administrator thought it was okay to build an addition because of a prior approval for impervious coverage. He said the municipality should be held to a higher standard and a fee should be issued for staff's time to review something after the fact.

#### Closed Session Resolution

DAG Heinzerling read a resolution to retire into closed session to discuss collective bargaining and potential litigation regarding Tuckahoe Turf Farms.

Commissioner Lloyd moved to retire into closed session. Commissioner Prickett seconded the motion. The Commission agreed to retire into closed session by a vote of 14 to 0, beginning at 11:48 a.m.

Return to Open Session

Commissioner Jackson made a motion to return to open session. Commissioner DiBello seconded the motion. The meeting resumed at 12:56 p.m.

DAG Heinzerling said in closed session the collective bargaining agreement and potential litigation regarding Tuckahoe Turf Farms, were discussed.

She said the Commission went back into open session for a closed session resolution to discuss litigation stemming from unfair labor practice claims.

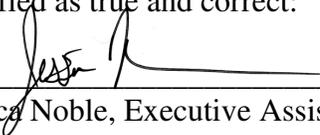
She said no formal action was taken on any matters.

Adjournment

Chairman Lohbauer wished everyone a Happy Thanksgiving holiday.

Commissioner Jackson moved to adjourn the meeting. Commissioner Prickett seconded the motion. The Commission agreed to adjourn at 12:59 p.m.

Certified as true and correct:

  
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Jessica Noble, Executive Assistant

Date: November 21, 2014