

Adopted January 27, 2012

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

Richard J. Sullivan Center / Terrence D. Moore Lecture Hall

15C Springfield Road

New Lisbon, New Jersey

January 3, 2012 – 11:00 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Mark Lohbauer, Candace Ashmun, Sean Earlen, Leslie Ficcaglia, and Edward Lloyd

MEMBERS ABSENT: Paul E. Galletta and Rick Harris

OTHER COMMISSISONERS PRESENT: Robert Jackson (*Commissioner Jackson did not vote on any matters as he is not a Committee member*)

STAFF PRESENT: Stacey Roth, Susan Grogan, Paul Leakan, John Bunnell, Robyn Jeney, and Betsy Piner

Chairman Lohbauer called the meeting to order at 11:16 a.m.

1. Adoption of minutes from the November 29, 2011 CMP Policy and Implementation Committee meeting

Commissioner Ficcaglia moved the adoption of the minutes of the November 29, 2011 CMP Policy and Implementation Committee meeting. Commissioner Ashmun seconded the motion and all voted in favor.

2. Pinelands Conservation Fund

Mr. Michael Catania, President of Conservation Resources, Inc, the Commission's facilitator for land acquisition through the Pinelands Conservation Fund (PCF), introduced his colleague, Ms. Anne Heasley. Together they updated the Committee through a PowerPoint presentation (*Attachment A*) on recent activity PCF activity focusing on Round 2010B projects. Of the 13 projects proposed for this round, 8 became inactive, 2 have closed and three remain active.

Of these three remaining projects, Clayton closed on December 28, 2011 preserving some 380 acres through a fee simple purchase; a 2.5 acre portion of the project has title issues which should be resolved shortly and Ocean County will be purchasing an easement on some 1400 acres with REPI (*Department of Defense Readiness and Environmental Protection Initiative*) funds. Wollman/YMCA has received additional funding from a family foundation and will be applying to the Commission for a subdivision to exclude three parcels from the project. Closing is anticipated in the late spring.

Mr. Catania stated that the third project is one with an expiring allocation that is requesting an extension. It requires discussion in Closed Session.

At 11:20 a.m., Commissioner Ashmun moved that the Committee meet in Closed Session. Commissioner Lloyd seconded the motion and all were in favor.

Members of the public vacated the room. *(Commissioner Earlen who has recused himself from all PCF land acquisition matters arrived during this Closed Session but did not join the meeting until after its conclusion.)*

The Committee returned to Open Session at 11:40 a.m. Members of the public and Commissioner Earlen joined the meeting.

Mr. Catania summarized the meeting stating that the Committee had granted an extension until April 2, 2012 for a project in Atlantic County that has a flexible allocation. The Committee will await that expiration date before determining if an additional round of funding for new projects is warranted.

Chairman Lohbauer noted that Mr. Catania will return with an update to the Committee, probably at the end of March. In the interim, he asked that the Commission be briefed on the details of the acquisition components of the MOA with the NJ Turnpike Authority.

3. Briefing on the Forest Advisory Committee meeting

Mr. Catania, the Chairman of the Forestry Advisory Committee (FAC), provided a summary of the FAC's December 20, 2011 meeting. He said that State Forester, Lynn Fleming, had provided a briefing on the Southern Pine Beetle infestation. She said that in 2011 some 6,700 acres had been infested which is less than had been anticipated. There was strong consensus among the Committee members that the Commission had done a good job of approving DEP applications for the "cut and leave" technique of dealing with the pine beetle. The "cut and remove" approach is also being considered but there is no consensus as to its effectiveness. It appears that the beetle population will wax and wane and that the goal should be to manage the peak populations and try to control them rather than expect that they will be eliminated.

On other issues, the FAC felt that the new forestry rules were working well although the consulting foresters say that there are delays at the municipal level in processing applications. Both the foresters and the environmental community seem satisfied with the Commission's efforts. The State still does not have a forestry stewardship plan for its own forests and there appears to be no money to fund the development of such a plan. It is difficult for DEP to manage its lands without adequate resources.

Mr. Catania said that there is nothing for the FAC to be doing right now and that the Committee is pleased that the new forestry rules are working well.

Commissioner Ashmun said that having the Committee meet regularly may make a difference in finally getting a State Forestry Plan. Mr. Catania said that the bill sponsored by Senators Smith and McKeon is on hold.

4. Discussion of a proposed Memorandum of Understanding between the Pinelands Commission and the Department of Environmental Protection establishing the regulatory framework pursuant to which the Department's Water Quality Management Planning regulations will be administered in the Pinelands Area

Ms. Roth said that she has been developing a proposed Memorandum of Understanding (MOU) between the Pinelands Commission and DEP regarding the administration of DEP's Water Quality Management Planning (WQMP) regulations in the Pinelands Area. Specifically, DEP will recognize Pinelands boundaries. Ms. Roth said that she had provided the DEP Deputy Attorney General with her 4th iteration of the MOU and awaits comment. Following receipt of that comment, she'll be prepared to discuss it with the Committee.

5. Legislative update

Ms. Roth reviewed a number of Pinelands-related state legislative bills:

- Assembly Bill 4335 (and its companion bill in the Senate) deals with water quality planning and extends the deadline by which new plans must be prepared now that the counties, rather than the municipalities, are the planning entities. This bill will be considered by the full Senate shortly.
- Ms. Roth asked the Committee to recall the Middle School Students who had made a presentation before the Commission last Fall to support their efforts to name the Pine Barrens Tree Frog as the State amphibian. She said that such a bill was introduced in the Assembly on December 12, 2011.
- Assembly Bill A4358/Senate Bill 1954 establish a forest harvest plan program on State-owned lands. It has been amended to provide funding. It excludes State-owned forests within the Pinelands. A Pinelands-specific bill for a forest harvest program is also being considered. Executive Director Wittenberg and Ms. Roth will be reaching out to the sponsor.
- There are two bills pending related to the Permit Extension Act granting a further extension by three years and retroactively approving projects back to 2008. The current Permit Extension Act covers only Regional Growth Areas. The new bills would extend to Pinelands Towns and Villages. Whereas the current Permit Extension Act recognizes the CMP, the new bills extend all permits automatically. This is inconsistent with the Pinelands Protection Act and the CMP which specify that there can be no change to the CMP without the authorization of the Department of the Interior. The Federal government could ask for the return of millions of dollars in funding. Ms. Roth noted

this may not have been the intent of this vague “catch-all” provision. Ms. Roth said that New Jersey Future and others have written a letter in opposition.

In response to Commissioner Lloyd’s question if there were something the Commission should do, Ms. Roth said that it may be premature at this time.

Ms. Roth concluded her discussion by noting the presence in the audience today of a group representing wildlife rehabilitators in New Jersey. She noted that they had attended the December 9, 2011 Commission meeting to express their concerns.

Ms. Roth said that following that meeting, Commission staff met with DEP and, as of December 22, 2011, DEP Assistant Commissioner, Amy Cradic, has established a Wildlife Rehabilitators Advisory Committee. Ms. Roth described the composition of the Committee and said that it includes representatives from all areas of the State. Its purpose is to provide the Division of Fish and Wildlife with recommendations on issues of concern to the rehabilitators. Ms. Roth stated that the decrease in wildlife rehabilitators is a nationwide trend but DEP has taken steps to increase their number in New Jersey.

6. Public comment

Ms. Marybeth Bennett, who noted that she had spoken at the December Commission meeting, Ms. Melissa Jacobs a wildlife rehabilitator for some 20 years, Mr. Barry Lefkowitz and Mr. Ron Jones, former Mayor of Beachwood Borough, addressed the Committee regarding their concerns related to the status of wildlife rehabilitators. They said that they were seeking the endorsement of the Commission for A3695 and S2740 regarding support for wildlife rehabilitators. They said that the Division of Fish and Wildlife has no incentive to support the rehabilitators and yet there needs to be an outlet through which the public can deal with injured wild animals

In response to a question from Commissioner Ficcaglia, Ms. Roth said that the regulation of wildlife is directly under the control of DEP. The Pinelands Commission deals with land use issues, the regulation of human development and habitat; it has no authority directly over animals. She said that the commenters were speaking to an agency that has no authority to respond.

Chairman Lohbauer said that it was not that the Commission was unsympathetic but, as the bills would expire with the current legislative session on January 9, 2012, he asked that Ms. Roth be provided with the new bills once available in the new session. Ms. Roth could review the bills and determine if there were an issue to which the Commission could respond.

Mayor Jones said that this bill is the right thing to do and will be a model for the rest of the country.

Commissioner Earlen said that he appreciated the efforts of the wildlife rehabilitators.

In response to Ms. Roth's question if they had approached groups such as the New Jersey Audubon Society or the Pinelands Preservation Alliance, Ms. Bennett said that the larger NGOs are "tied up" with the Division of Fish and Wildlife.

Mr. Mark Demitroff, Richland Village resident, said that environmental and cultural surveys should be completed prior to the initiation of water quality projects. He noted that for a project of the Buena Borough MUA, the culture of the community of Hebron had been ignored. Furthermore, some ten years ago, he had advised the Commission that the geology of the area was unsuitable for recharge. Likewise, the location of a sewer plant in Richland Village (Buena Vista Township) ignored issues such as wetlands, T/E species and the inappropriate means of purchasing the land. The Commission and the Atlantic County Utilities Authority have expended much money on this project which is unpopular with the residents. He noted that Buena Vista Township was losing its mayor (Mayor Chuck Chiarello) because the people of the community did not want this project.

Mr. Fred Akers, with the Great Egg Harbor Watershed Association, said that he has "big picture" concerns over water quality management plans and has been following this issue closely. He said that back in the 1960's the technology existed for all the subregional plans to operate properly but it was not affordable on a small scale. To resolve that economic problem, a regional plan and regional treatment plants were created. He said that his focus is on Atlantic County where he serves on the ACUA. From an economic standpoint, a regional plan is more feasible. He noted that back when the original planning was done for this regional ACUA sewer system, both Hammonton and Buena Borough had been invited to participate in the Atlantic County wastewater planning process but chose not to participate. It is the municipal wastewater treatment plants of these two communities that have had economic and engineering functional problems. He said that it appears that the trend is returning to subregional plans with the development of package treatment plants, particularly in Pinelands Villages, and he was concerned with the sewer service areas.

7. Other Items of Interest

The Committee adjourned at 1:42 p.m. (moved by Commissioner Lloyd and seconded by Commissioner Earlen).

Certified as true and correct:

Betsy Piner, Principal Planning Assistant

Date: _____
January 11, 2012

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Richard J. Sullivan Center / Terrence D. Moore Lecture Hall

15C Springfield Road

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January 3, 2012 - 9:30 a.m.

SUMMARY

The Committee adopted the minutes of the November 29, 2011 meeting.

The Committee received an update on the acquisition component of the Pinelands Conservation Fund from Conservation Resources, Inc. staff. In Closed Session, the Committee granted a second deadline extension for a project in Atlantic County until April 2, 2012.

The Committee received an update from Michael Catania, Chairman, Pinelands Forestry Advisory Committee, on its December 20, 2011 meeting.

Ms. Roth provided a legislative update on bills of interest to the Commission related to water quality planning, the naming of the Pine Barrens tree frog as the state amphibian, the permit extension act and forest harvest plans for State-owned forests.

During public comment, a group advocating for wildlife rehabilitators in New Jersey sought Commission support for legislation.