

Adopted March 30, 2012

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

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

15C Springfield Road

New Lisbon, New Jersey

February 24, 2012 – 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Mark Lohbauer, Candace Ashmun, Sean Earlen, Leslie Ficcaglia, Richard Harris, Edward Lloyd, D'Arcy Rohan Green (1st Alternate) and Richard Prickett (3rd Alternate)

MEMBERS ABSENT: Paul E. Galletta

OTHER COMMISSIONER PRESENT: John Haas

STAFF PRESENT: Nancy Wittenberg, Stacey Roth, Larry Liggett, Susan Grogan, Joel Mott, Paul Leakan, Nick Procopio and Jessica Noble

Chairman Lohbauer called the meeting to order at 9:31 a.m.

Ms. Roth noted the presence of a quorum of the Commission and read the Open Public Meetings Act Statement. She said that this Committee will take no formal action today but may make recommendations to the full Commission. Ms. Grogan confirmed that all Committee members present today were eligible to vote on matters at today's meeting, with the exception of 3rd Alternate, Commissioner Prickett. Ms. Noble called the roll.

1. Adoption of minutes from the January 27, 2012 CMP Policy and Implementation Committee meeting

Commissioner Ashmun moved the adoption of the minutes of the January 27, 2012 CMP Policy and Implementation Committee meeting. Commissioner Lloyd seconded the motion and all voted in favor.

2. Update on the development of Pinelands exhibits for the Richard J. Sullivan Center

Mr. Paul Leakan, the Commission's Communications Officer, introduced the exhibit designers from Content Design Collaborative, Mr. Ed Malouf and Mr. Matt Kirchman as well as Mr. Phil Correll, with the National Park Service (NPS). Mr. Leakan noted that it was the NPS that had funded the grant for the exhibit design for the Pinelands interpretive center in the R.J. Sullivan Center. Over the past year, staff had worked with Content Design and today the Committee will receive an update on the project as it nears completion. The full Commission will receive a presentation on the final design following any input from this Committee and some further refinement of details and text.

Mr. Malouf and Mr. Kirchman described the firm's work during the course of the last six months, providing information on the design process, noting that this is the final "paper" phase. The physical phase is next. They noted how this design incorporates concepts that will make this office similar to a small museum. They expanded on the various elements of the design plan including the welcome statement, the topographic map, the newly installed Smart Board as well as specific exhibits.

In response to a question from Commissioner Ashmun regarding projected maintenance costs, Mr. Joel Mott said that it needs to be as low maintenance as possible; that factor drove much of the decision-making in the design process.

In response to comments from Commissioner Rohan Green that she liked the design and wanted to know if a marketing plan had been devised, Mr. Leakan said that such a plan will be created in conjunction with efforts to seek grant funding to cover fabrication and installation costs.

Commissioner Harris thanked Mr. Correll for facilitating this project and providing the funding through the NPS. He suggested that the mission or welcome statement include more about recreation. Commissioner Harris said that he felt a personal appreciation of the recreational resources provided in the Pinelands.

In response to Commissioner Haas' question regarding estimated exhibit construction costs, Mr. Mott said that the estimated cost is between \$200,000-\$250,000.

Commissioner Haas suggested that the exhibit include a Harry Shourds black duck decoy. He said that Mr. Shourds, a 4th generation carver, is originally from Tuckerton and is the most famous decoy carver in New Jersey.

Mr. Malouf said that the public seemed sensitive to the sorts of artifacts that would be appropriate and that a replica of Lenni-Lenape basket was another item being considered for inclusion.

In response to Commissioner Ficcardia's question regarding opportunities for educating school children, Mr. Mott noted that it is a major guiding principle of the project and that the 4th to 6th grade age range could appreciate the exhibit as it relates to the curriculum.

Mr. Malouf said many of the principles that they have incorporated into the exhibits were inspired by activities that Mr. Mott has done with his frequent outreach programs with school children.

Commissioner Ashmun suggested that the Highlands boundary be added to the topographic map.

In response to a question from Commissioner Rohan-Green regarding the duration of the construction phase, Mr. Malouf said that one should allot about nine months.

In response to a question from Commissioner Ashmun regarding the availability of computers for the public's use, Mr. Leakan said a computer could be made available in the RJS Center's Library. Mr. Mott added that locating the computer there would complement the current use of this public space by promoting it as a research library.

Chairman Lohbauer thanked the consultants for the presentation and said that he felt that they had accomplished a lot in a small space.

3. Executive Director's Report

Buena Vista Township Ordinance 14-2011, amending Chapter 49 (Development Regulations) of the Township's Code in response to amendments to the Pinelands CMP related to forestry, wetlands management, and residential cluster development in the Pinelands Forest and Rural Development Areas.

Ms. Grogan said that Buena Vista Township Ordinance 14-2011 is the Township's response to the three sets of CMP amendments (forestry, wetlands management, and residential cluster development). A number of municipalities have already gone through the process and adopted clustering ordinances that directly mirror the CMP standards that staff has been able to approve administratively. This is the first ordinance that requires formal Commission review because the municipality has modified the standards, primarily by modifying the CMP bonus density provisions.

Ordinance 14-2011 incorporates the mandatory cluster development standards in all the many zones within the Township's Rural Development (RDA) and Forest Areas (FA) whenever two or more units are proposed. The ordinance includes all the CMP standards, e.g. 1-acre lot size, the deed restriction of the open space within the development, the location of the development area on the parcel, the provisions of accessory recreational opportunities, etc.) The notable change relates to the bonus density awarded on larger parcels. Under the CMP, this bonus density kicks in at the 50-acre threshold and increases with the size of the parcel and at a percentage related to the permitted density. The Township has incorporated the bonus density but has elected to tie the eligibility for bonus units to a demonstration that the landowner has acquired additional lands to be included in the cluster development. There is no minimum amount of additional land to be acquired. Because both the Township's FA and RDA are very large (thousands of acres), the likelihood of someone being able to acquire such additional lands should be relatively high. This change to the density bonus standards is something that the Commission acknowledged during the rule adoption process in response to a series of public comments.

Ms. Grogan said that staff has advised the Township that there are certain pitfalls to which they should pay attention. As there is no minimum limit on the amount of additional land acquired, an individual may acquire only one additional acre in order to render the entire parcel eligible for bonus units. A larger concern is perhaps that some landowners may use creative means to try to become eligible for bonus units, such as

purchasing adjacent land from a family member or, as the owner of a corporation, transferring some lands from corporate ownership to the name of the owner of the corporation. This is a municipal standard and it will be Buena Vista's responsibility to monitor and enforce the acquisition of the additional lands. However, both the municipality and Commission staff will need to consider how to review these applications and determine the eligibility of bonus units. There may be some periods of adjustment to these new bonus density provisions.

At the February 1, 2012 public hearing, Ms. Jaclyn Rhodes, with the Pinelands Preservation Alliance (PPA), supported the Ordinance as the limiting of bonus units is a concept for which PPA has long advocated. A letter from Buena Vista Township is also included with the report, justifying its changes to the bonus density standards. By requiring the acquisition of additional lands, the Township's intent is to deed restrict even larger contiguous tracts of open space while potentially reducing the number of bonus units.

Staff is comfortable in recommending Commission approval of this ordinance.

Ms. Grogan said that the most commonly cited complaint that she hears from the municipalities regarding the clustering amendments relates to the bonus densities and the number of units that a municipality might have to absorb.

Commissioner Prickett asked if the ordinance provides landowners with an incentive for forestry or wetlands management in general.

Ms. Grogan responded that one of the goals of the revised forestry rules was to provide more clarity to the permitted forestry practices. She said that the process does not change but there is an incentive for those to participate in the Forestry Stewardship Program in order to avoid having to go through the Pinelands application process. With respect to wetlands management, it will now be permitted whereas before the amendments, it generally was not.

Commissioner Lloyd said that he supported this ordinance. Referencing the 20,000 acres of vacant land, he wanted to know the number of 50 acre tracts available. Ms. Grogan said that although they did not have the answer today, it could be determined. What is not known is how many bonus units will actually occur. Mr. Liggett said that the information may have been contained in the original clustering white paper. Ms. Grogan said that the average lot size is actually very small. She said that unless one knew how things would be consolidated, there was no way of predicting exactly how many bonus units might be developed.

Commissioner Lloyd moved the recommendation of certification of Buena Vista Township Ordinance 14-2011. Commissioner Ficcaglia seconded the motion and all voted in favor.

4. Update on the 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. Wittenberg said that she and Ms. Roth had met with DEP once again (Ray Cantor [Chief Advisor], John Hutchison, [Senior Policy Advisor], and Jane Engel from the Attorney General's office). Mr. Cantor is supportive of the Commission's interest in having DEP recognize the Pinelands boundaries. The meetings now are trying to address legal concerns from DEP regarding their authority.

Ms. Roth said that the 1977 Water Quality Planning Act predates the Pinelands Protection Act by two years. The Act recognized regional planning efforts even at that time as there was evidence that the protection of the Pinelands was in process. Ms. Roth said that she had noted to DAG Engel that DEP needed to integrate the CMP and the Pinelands Protection Act into their process. Ms. Roth said that the Commission has done the planning, it is consistent with the Water Quality Planning Act and she believed that DEP is going to recognize that they are not amending or changing any of the rules through this process. She said she is now in the 9th iteration of the MOU with DEP.

Mr. Liggett said that one of the concerns appears to be with the Villages. Staff has been working with Buena Vista Township on Richland Village to find a solution to wastewater issues.

In response to Commissioner Haas' question regarding a deadline, Ms. Wittenberg said that DEP wants the counties to update their wastewater plans but none of the counties can move forward until this matter of recognizing Pinelands boundaries is resolved.

5. Update on the Kirkwood/Cohansey project

Ms. Wittenberg said that today's presentations from the Science and Planning Offices will update the Commission on the Kirkwood-Cohansey (K-C) project.

Dr. Nick Procopio initiated the presentation (*Attachment A*) with a quote from the Gibson Bill (NJPL 2001 c. 165) that initiated the project to determine how the current and future water supply needs within the Pinelands Area may be met while protecting the K-C aquifer. The research began in 2003 and is a collaboration among the US Geological Survey (USGS), Rutgers University and the Pinelands Commission. He provided the project schedule and noted that the research done by Commission staff has been published in peer-reviewed technical journals.

Mr. Liggett said that the project has been somewhat delayed due to the Commission's inability to replace lost staff. He made a separate presentation (*Attachment B*) in conjunction with that of Dr. Procopio. The Planning Office component looks at how much water is needed now ("now", being ~ years 2004-2006), and in the future (at build-out) and is evaluating residential, non-residential and agricultural uses under three

scenarios of high, medium and lower water use. The high scenario is based on a build-out at zone capacity for all vacant lands. The medium scenario uses a constrained zone capacity by recognizing wetlands, roads and other infrastructure, and design inefficiencies. The lower scenario is based on current trends. Mr. Liggett went on to describe the various facts and assumptions that had been made and described consumptive and depletive water use. He provided analyses for the estimation of current and future water use.

Mr. Liggett then discussed the need for future wells to accommodate the predicted increase in the amount of residential development, the increased floor area of commercial development and the increased use of irrigation on what is likely to be reduced acreage of farmland. He provided a case study for Barnegat Township, noting that one needs to evaluate the number of various watersheds, existing wells, and number of watersheds that can no longer sustain additional wells and those that can sustain one or more wells. He said that data (number of units, square feet of commercial development) have been collected for all management areas and all zones for all three scenarios.

Dr. Procopio resumed his portion of the presentation. He stated that while the Planning Office was determining the build-out and water demand, the Science Office was researching the potential effects of water withdrawal.

He provided an overview of the five Commission studies in which models were developed to predict how changes in hydrogeology would impact aquatic habitat, fish and macroinvertebrates; intermittent ponds; frog development; swamp pink; and forested wetlands. He said that the studies were all simulated; no water was withdrawn from the streams. The next step was to determine the amount of water that could be withdrawn safely while still protecting the resources on both a regional and local scale. He concluded by stating that the results from the studies can be used as guidelines to evaluate the impacts of water withdrawal.

Mr. Liggett said that these data and metrics will be refined when staff approves new wells.

Members of the Committee expressed concern regarding the affects of wells outside the Pinelands.

Chairman Lohbauer thanked the staff for the presentation.

6. Public comment

Mr. Fred Akers, with the Great Egg Harbor Watershed Association, said he enjoyed today's presentations. He said that he sincerely appreciated the forum for public comment at the Commission's meetings. He referenced the presentation by Dan Kennedy, Deputy Director, Office for Planning Advocacy, at the last Commission meeting on the *draft* Final State Strategic Plan. He said that he had attended Mr. Kennedy's subsequent presentation at Stockton on February 20, 2012 at which some in the audience used "tea

party" and "liberty for prosperity" talking points when discussing the State Plan. Mr. Kennedy had said without planning authority, the State could use incentives to encourage response from the counties and municipalities. Mr. Akers said that he did not think that this will work. He referenced Richland Village and the \$100,000 contribution that the Commission provided to Buena Vista Township for a "package wastewater treatment plant." He questioned whether this financial incentive was worthwhile, noting that this project may not work or even come to fruition. As such, he cautioned the Commission to be careful with incentives.

Mr. Akers also said that, on Monday night, the Atlantic County Groundwater Advisory Committee would be reorganizing. The Committee was established in 2002 by County Executive Dennis Levinson in response to a severe drought. At the time, Bradley Campbell was the DEP Commissioner. Mr. Akers said that he recalled the Commission meeting which Commissioner Campbell had attended and a bus full of concerned citizens arrived necessitating the placement of a closed-circuit TV. in the foyer to accommodate all present.

7. Other Items of Interest

Ms. Wittenberg said that there is Pinelands specific language inserted in the Permit Extension Act. She preferred that there be no Pinelands language in the bill and staff has developed a process that it believes will work administratively rather than legislatively. She is awaiting a response from the builders to her proposal.

Commissioner Prickett noted that he had attended the Science Office speakers' series on parasites and food webs and said that they had been very interesting and well attended.

The Committee adjourned at 11:41 a.m. (moved by Commissioner Ficcaglia and seconded by Commissioner Earlen).

Certified as true and correct:

Betsy Piner, Principal Planning Assistant

Date: _____

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SUMMARY

The Committee adopted the minutes of the meeting of January 27, 2012.

The Committee received an update from Content Design Collaborative on the Pinelands exhibits for the Richard Sullivan Center. The design plan is nearly complete and a presentation to the full Commission will be made later this spring.

The Committee recommended that the Commission certify Buena Vista Township Ordinance #14-2011.

The Committee received a presentation by staff on the Kirkwood-Cohansey Project for build-out and water demand analysis. Next steps will involve planning for appropriate new wells within the Kirkwood-Cohansey service area.