

Adopted March 23, 2009

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

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

15C Springfield Road

New Lisbon, New Jersey

February 18, 2009 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Acting Chairman Norman Tomasello, Candace Ashmun, Ed Lloyd, Paul E. Galletta (2nd Alternate) and Daniel M. Kennedy (3rd Alternate)

MEMBERS ABSENT: Leslie Ficaglia, Stephen Lee, Robert W. McIntosh

STAFF PRESENT: John Stokes, Stacey Roth, Robert Zampella, Nick Procopio, Larry Liggett, Susan Grogan, Paul Leakan, Paul Tyshchenko, Michael Yaffe, and Betsy Piner

Acting Chairman Tomasello called the meeting to order at 9:32 a.m. He announced that this was the first of a series of multiple meetings to address potential changes to the Land Capability Map and that no action would be taken today.

1. Ecological Integrity Assessment: review of final draft of revised Land Capability Map

Mr. Stokes provided background to the project, noting that last spring, the Science Office had completed the Ecological Integrity Assessment (EIA), a comprehensive reevaluation of the ecological attributes of the Pinelands, based on current and updated data.

As a result of that new information, Mr. Liggett and the Planning Office were charged with analyzing and identifying potential map changes. The Planning Office developed a series of 20 criteria based on regional planning and environmental criteria and has been reaching out to municipalities to solicit input on those criteria. Meetings were held in October, 2008, attended by some 100 municipal representatives and subsequently a number of meetings have been held with individual municipalities and property owners. Today's meeting is the start of the Committee's review of the Planning Office's recommendations and Mr. Stokes suggested that the Committee set up a series of special meetings to address just the EIA policy issue, meeting at various locations due to the level of interest.

Mr. Stokes described where the Committee was in the overall process of considering changes to the map and noted that following a detailed review process and the receipt of public comment, ultimately the Committee could decide if the Commission as a whole should consider changes. Following that recommendation, if the Commission believes that the changes have merit and should be fully considered, the proposal is advanced through a very public process including public hearings. If the Commission adopts the rule changes, then the conformance process starts, providing the municipalities an opportunity to refine these regional changes to reflect local conditions. He said that this was truly the beginning of a long and deliberative process but that he believed that the outcome would be positive.

Before proceeding further, Mr. Stokes confirmed that everyone who wished to attend the meeting had a seat.

Mr. Liggett asked Dr. Zampella to describe the process used by the Science Office in its analysis and to answer the questions of what is habitat and whether the distinction made between “High Integrity Areas” and “Low Integrity Areas” as used by planning staff in making their recommendations was justified.

Dr. Zampella made a PowerPoint presentation (*based on that provided to the full Commission at its September 9, 2008 meeting*) describing how the science office had gone about describing what is natural vegetation in the Pinelands. He said that their work was based on landscape, wetlands and aquatic integrity and that the report (“*An Ecological-integrity Assessment of the New Jersey Pinelands: A Comprehensive Assessment of the Landscape and Aquatic and Wetland Systems of the Region*”) contains 40 pages of citations of scientific literature. He described the method for measuring and evaluating some 31 million 10x10 meter units. He noted that they had mapped drainage units in more detail than any other mapping in the country. He cited Dr. Richard Forman at Harvard University, formerly at Rutgers, who, in 1979, described habitat as *lands that were not planted by humans*. Dr. Zampella said that his office did not study any land use that was not habitat. He said that although abandoned agricultural fields could become habitat, the Science Office dealt only with existing conditions.

Dr. Zampella said that the EIA is based on the percentage of altered lands. “High-Integrity Areas” are those with a Composite Ecological Integrity Assessment score of >70%. The composite score is based on the value of an area’s landscape integrity score (a measure of the extent of Pinelands habitat), aquatic-integrity score (a measure of the land in a watershed that is neither developed nor upland agriculture) and the wetland-drainage integrity score (the measure of the land in a wetland-drainage unit that is neither developed nor upland agriculture). He said that the majority of the Pinelands is of the highest integrity and that only ~18% was non-habitat. For policy purposes, the threshold of 70% was selected.

In response to a comment by Commissioner Galletta that he believed that wetland agriculture had high ecological value, Dr. Zampella said that his report cites literature that indicates that cranberry bogs are not the same as forest. He said DEP has classified blueberry agriculture as both orchards and wetland agriculture. Mr. Stokes added that the question is not whether other areas, e.g., back yards, agriculture, etc. have habitat value; it is the fact that they don’t provide the attributes that sustain the Pinelands characteristics. The Pinelands Commission is going to focus its efforts to preserve the ecological attributes of the Pinelands. The goal for protecting agriculture is different than that of preserving the characteristic Pinelands environment.

Mr. Stokes said that the Commission should focus its conservation efforts on those areas of highest value. The converse is that conservation measures should not be imposed on areas of less integrity.

Mr. Liggett, Mr. Tyshchenko, and Mr. Yaffe provided a PowerPoint presentation (*Attachment A*). Mr. Liggett said that staff had developed some 20 criteria for analyzing the subject areas and that the threshold area sizes for consideration were 100 acres for a freestanding new management area designation and 25 acres for the expansion of an existing boundary. (These areas appear as polygons on the map and are referred to by a unique number that is referenced in associated charts which summarize the attributes of that particular polygon.) He said that Dr. Zampella’s work had been based on 2002 aerials but the Planning Office was looking at more recent information through their communication with various landowners and municipalities, etc. He said that many polygons were eliminated from consideration early in the process for reasons such as the presence of committed projects (those having received a local approval as well as a “no call up” from the Commission). He said that staff was recommending changes to about 4% of the

Pinelands, none of which were in the Military or Special Agricultural Production Areas. He said that the bulk of the changes were from RDA to FA and that the end result would be a drop in zone capacity of an estimated 5,100 units.

Mr. Liggett reviewed the types of questions and issues that staff was trying to address There are 51 Pinelands Villages. For those that meet CMP standards, nothing will be implemented but, for the larger ones, staff recommends that portions be placed in a Forest Area. This analysis will probably take place during the conformance process. In addition to the map changes, what staff refers to as Phase I, Phase II will address issues such as isolated settlements like Presidential Lakes and the mobile home parks would best be dealt with through amending the Pinelands Commission's sewer policies.

Mr. Stokes said that a number of the 131 recommended map changes are simple and straightforward. He said that he believed the Committee should focus today on the unusual cases, including those raising local concerns regarding unusual conditions.

Mr. Liggett reviewed the following polygons (slides included aeriels):

- ? #79, Bass River Township, recommending 130 acres PV? FA. The Township recommends no Village changes
- ? #53, Buena Vista Township, 28 acres, PV? FA; Buena Vista Township has requested that it not be changed
- ? #214, Maurice River Township, 40 acres PV? FA. The Township is concerned about the loss of development opportunities
- ? #249 Buena Vista Township, south of Folsom on Route 53, 413 acres, RDA? FA; the Township believes it is vital to their future that this remain RDA-Industrial
- ? #20, Winslow, RDA? FA; along and crosses the Atlantic City Expressway near Blue Anchor yet still has high integrity. The Township owns it and wants to keep it as an asset
- ? #322, Winslow, RDA? RGA along Route 73. There is a very large warehouse complex and many businesses as well as an operating sand mine. Winslow is concerned that they will have a residential and/or affordable housing obligation and will be difficult to sewer. Staff does not believe there will be a residential obligation and that sewerage could be accomplished.
- ? #12, Upper Township; this was rezoned (RDA? FA) many years ago to allow a golf course project that never materialized; now staff believes that it should be in FA; the Township objects since there was a tradeoff at the time
- ? A polygon in Mullica Township; the site of an old motel project that was never completed; the Township wants to add it to the Village but staff is recommending that other lands rejected as trades-off go to FA, thus leaving the Village rezoning without possible offsets.
- ? #48, Egg Harbor Township, a large wetlands complex near the Garden State Parkway; staff is recommending that this be rezoned RGA? FA .The Township is supportive except for the area near the Shore Mall as they don't want to lose that development potential.
- ? #33, Monroe, 177 ac. RDA? RGA on the Black Horse Pike near Williamstown; near a sewer line and there are farmlands in a 5-acre zone so it is unlikely that this area will be allowed to revert to habitat. However, Pinelands Preservation Alliance (PPA) and Great Egg Harbor Watershed Association (GEHWA) spokespersons object.
- ? #47, Galloway, (RDA? FA) adjacent to Interchange 44 of the Garden State Parkway and looping around behind Stockton State College; everyone agrees that this should be a full interchange and staff believed that it will still be feasible under FA zoning.

Mr. Stokes said that concerns about the interchange are not relevant to this discussion. The map change will not obstruct the Turnpike Authority's ability to develop the interchange. That does not obviate two other matters: the environmental constraints which are to be addressed whether the interchange were in FA or RDA; and the assessment of whether or not an improved interchange would lead to undesirable secondary impacts. He said that public service infrastructure is permitted in the FA, provided it is designed to service the needs of the Pinelands. Atlantic County is looking at an internal circulation plan for the County; creating full access at this interchange will service and benefit Stockton College and alleviate the safety issue at the service area on Jimmie Leeds Road.

Mr. Stokes noted the presence in the audience today of a property owner with whom he had spoken who owns 130 acres in this area who has expressed concerns over the status of a development project he is pursuing. Mr. Liggett said that he had received a number of letters from property owners whose projects were in various stages who had similar concerns.

In response to Commissioner Galletta's question if the Committee had chosen the issuance of a No Call-Up (NCU) Letter as the criteria that would determine the protection of a project site, Mr. Stokes said yes but that the criteria are part of the Committee's review. He said that based upon the questions that are evolving, perhaps it is through the conformance process that some of these issues should be resolved. He said that he did not believe that the Commission should establish a firm line, but should allow adjustments according to circumstances.

- ? #62, Galloway Township, 40 acres in a high integrity area, RDA? FA, next to a 5-acre FA Zone; the owner has plans to develop in the area. Mr. Liggett said that this was another "pipeline" issue where the owner does not have a No Call Up letter (nor a Certificate of Filing [C/F]).

Mr. Stokes said that due to the 25-acre threshold, this 40 acre parcel was recommended due to its size. However, looking at the individual circumstances, he said that he believed the Township could retain the 5-acre zoning whether the property were in RDA or FA and it wouldn't have any practical effect.

Commissioner Kennedy said that he'd like to see a more liberal interpretation of the "ripeness" of a project, i.e., not use NCUs.

- ? #480 is the DEP Off-Road Vehicle site in Buena Vista Township, a former mine. DEP is intending to issue an RFP for the development of the site as an ORV park but this is a high integrity area and recommended for designation as FA, which would not allow ORV parks.

Mr. Stokes said that one of the exclusionary criteria is the existence of a public plan. There is no plan for this site, just talk about preparing the plan, so it is appropriate for consideration.

Mr. Liggett reviewed a few of the Not Recommended polygons

- ? #119 Buena Vista Township RDA? PT along Route 40 in a sewer service area (although not yet available). They need sewer service for a glass company and for Richland Village. It is low integrity RDA. Buena Vista would like to see this as part of the PT but it does not meet the criteria

- ? #333, Barnegat, conservation zone of Ocean Acres, considered for FA but there is already a local zoning plan that protects the resource and the integrity has been somewhat impacted from development since 2002
- ? #106/107 along the Toms River Corridor in Jackson Township; there is a development approval on #106 but it is being contested; #107 has multiple development approvals. This was an area of high integrity in 2002 but since that time there have been multiple development approvals and staff believes it should remain in RGA.

Mr. Liggett said that there was concern as to how to provide this information to the Committee members who were not here today. He said that there was much additional data to share.

Acting Chairman Tomasello called for public comment:

2. Public Comment

Deborah Kurtz said that she lived near Williamstown and opposed any changes to polygon #480 (the ATV site). She said that Monroe Township already had enough development and that the Commission should “Save the Pinelands.”

Mr. Stokes said that, to the extent that she had specific information, it would be helpful. There will be multiple opportunities for public comment and he invited everyone present to submit written comment elaborating upon any information they wished to provide.

Robert DePetris, Mayor of Woodland Township, referencing polygon #85 (PV? PAD), said that he had read the Commission’s MOA with the Council on Affordable Housing and he said that if this change were made, there was no place in Woodland Township where affordable housing could be accommodated.

Chuck Chiarello, Mayor of Buena Vista Township and Chairman of the Pinelands Municipal Council, said that the staff had taken time to hear the concerns of the Township. He said that he was always promoting the Pinelands but with these proposed management area changes, he was concerned with losing opportunities for development that would help support the cost of running the towns, schools, etc. He said that the impacts of 1979 were still being felt today. He suggested that just as there had been grandfathering for those who held lands in 1979, so there should be for those who purchased lands 20 years ago and might now be subject to these management area changes. He said that Buena Vista has more than 4,000 acres of affected lands. He said that for one polygon, a sand mining operation is allowed to operate right next to lands whose owners can do nothing more. He said there needed to be safety nets. He said that the clustering rules had passed despite concerns expressed. It would be easier to make adjustments before the map is presented. He said that Buena Vista had 14 recommendations for the Commission’s consideration.

Commissioner Ashmun directed a comment to Mayor Chiarello and noted that the conformance process may bring about many of the differences being requested as adjustments are made.

Mr. Jim Schroeder, Atlantic County Freeholder, referenced a February 4, 2009 letter that he had sent to the Commission expressing a number of concerns including lack of public notification, requiring the public to review the maps on line and then travel to New Lisbon. He said that while the Pinelands Commission has done some good things, people should not have their property rights taken. He said that there should be public hearings, an appeals process should be identified,

and that the Commission should keep in mind that many towns have just gone through expensive master plan reviews and, with the adoption of these map changes, will be required to go through another. He also noted that the Garden State Parkway Interchange #44 was badly needed and would benefit the region. He also asked that the staff be available to meet with the freeholders.

Mr. Stephen Moliver, Chairman of the Galloway Township Economic Development Committee, read a letter submitted on behalf of Stockton College from President Herbert Saatkamp (*Attachment B*).

Mr. David Wassan, Medford Lakes Borough, said that the PowerPoint presentation had been very informative. He said that although the maps are available on the website, it is unclear as to what changes are being made. He asked if that information could be made available to the municipalities.

Mr. Stokes responded that staff had supplied much information to the municipalities and would be happy to continue to do so.

Mr. Paul Dietrich, Upper Township engineer, discussed the inequity of changes to polygon #12 noting that some years ago the Township had gone through a rezoning process and met the balance required by the Commission in order to allow the development of a golf course. As that golf course project was never developed, the other property owners who had been downzoned through that previous conformance process will now come to the Township and ask why. He said that there are some lots that are being recommended for FA designation (Sunset Acres) that should be in the PV and he asked for some flexibility.

Mr. David Scheidegg, Buena Vista Township engineer, said that he appreciated these meetings and noted that he had submitted a letter on January 14, 2009 with a number of issues. Of particular interest was the Comar Place Development. He noted that Polygon #67 is a recommendation to downzone 3,000 acres from RDA to FA. He said that #249, was a 400 acre area and was the Township's only industrial zone. He requested that Comar Place be included in a PT or PV zone. He said that Comar needed a place to expand and, as it was the Township's largest employer, Buena Vista wanted to see that happen. He said that the Township also wanted to discuss the other 14 points in his letter.

Mayor Thomas Bassford, Galloway Township, said that it was vitally important that Exit #44 of the Garden State Parkway become a full interchange. He said that there seemed to be a disconnect between the Turnpike Authority and the Commission as the Authority says that the management area change will make the development of that interchange more difficult. He said that there were many landowners here today and he didn't see the justice in rezoning their lands and reducing their value.

Mr. James DelCane, Galloway Township resident said that he owned a 130 acre parcel under consideration that he had purchased 10 years ago as an investment. He was in the process of doing a subdivision and anticipated 23 lots; now with the management area change, he might get 6 lots and would lose 30 acres of potential commercial development.

Ms. Betty Ann Mangold, a Galloway Township resident since 1962, said that she had started with two acres of land and now has ten acres, but cannot subdivide it for her children. She said that she has planted many lady slippers on her property so knows that endangered species can thrive in that environment. She asked why the Commission sees the need to create a new map.

Mr. Stokes asked Ms. Mangold to provide Mr. Tyshchenko with her block and lot information and they would look into it.

Mr. Jake Glassey, Egg Harbor Township Deputy Mayor, said that the RGA communities have been destroyed by over development and now it was preposterous for the Commission to consider rezoning to FA when the Township has been forced to absorb so much growth. He reminded the Committee that some years ago there had been a bus tour through the growth communities to show the Commission the nature of their concerns. He said that the Commission was starting another land grab and asked what happened to the concept of *state mandate and state pay*. He said the Township's roads were deteriorating and the schools need expanding and the Commission needed to talk with the municipalities before it made any changes.

Mr. Rick Weber, Galloway Township resident identified himself as the resident directly across from Polygon #47. He said that he bought it with the intent of making it his home and he has 7 1/2 ac. of wetlands and now the remaining 5 acres will be taken away through a management area change. He said that he was lucky that Galloway Township had notified him of the meeting. In response to Mr. Stokes' question if his property were proposed for a management area change, he said yes. Mr. Weber provided written comment (*Attachment C*).

Ms. Tiffany CuvIELLO, Galloway Township Planner, said that the Township had notified all the property owners and that the parcel information should be provided to the towns; it should not be up to the Township/residents to seek this information. She said that she had sent two letters to the Commission which have resulted in some requested changes to the draft maps. She said that there are smaller property owners affected and she said that if the Commission says that #62 could be a 5-acre zoning district in either RDA or FA, what was the point in making a change?

Mr. Stokes said that was exactly the point he was trying to make.

Ms. CuvIELLO said that, at the recent Pinelands Municipal council meeting, Mr. Liggett had said that some grandfathering could take place. She said that the municipalities are responsible for implementing these zoning changes, requiring expensive individual public notices or notification through a review of the master plan. She said that the Commission needed to look at the impacts and recognize that this was just not fair.

Commissioner Kennedy left the meeting at 12:12 p.m.

Mr. Anthony Cinotti, Buena Vista Township resident asked why the Commission would consider rezoning a 30-acre parcel along a paved road with cable, power lines, etc. Mr. Stokes asked if there were a specific area of concern.

Mr. John Ade, owner of property within Polygon #62 provided written comment (*Attachment D*).

Mr. Dan Burke, Jackson Township said that the Township had just spent \$250,000 on its Master Plan review and has expressed concern about the management area changes. He said that Parcel #106 was identified by Mr. Liggett as High Integrity Forest Area. He said that it was under development pressure and that Jackson is challenging it in court. Jackson is critically concerned with the advance of the joint military base. He said that the output from the Joint Land Use Study was expected at the end of the month. He said that #106 will see an increase of overflights of 80,000 per year over a residential population. Jackson is concerned with the development that could occur under that flight path.

Mr. Stokes said that was one of the areas that staff will be asking the Committee to address. He said that he understood that the Township had been ordered by the courts to approve the development project.

Mr. Liggett said that he had invited Jackson Township officials to attend the March 27, 2009 CMP P&I Committee meeting.

Mr. Ian Borden said he represented the property owner of #142 (Jackson Township, Toms River Corridor Plan), that it was on a county road and was the only property south of the road proposed for change (RDA to FA). His client had an application pending. Mr. Borden supplied a letter (*Attachment E; due to the lengthy attachments to Mr. Borden's submission, only the cover is provided here but the complete record is included with the file copy of these minutes and is available for review*) He said that, as for parcels #106/107, Mr. Liggett had provided appropriate information and they are in a sewer service area. The properties under construction are fully approved. He said that he understood Jackson's frustration but the development was proceeding in a manner fully consistent with the CMP.

Ms. Meg Worthington, Galloway Township Councilwoman posed three questions: Was the Commission still on a spring schedule for a rule change? Mr. Stokes responded that he had asked the Committee to complete its review by late spring and then if it chose to do so, the Commission would proceed with the formal review.

Ms. Worthington asked if the mission statement of the Pinelands Commission recognizes people as animals. Mr. Stokes responded that the mission statement comes out of the legislation and references non-human animals although there are other specific components of the Pinelands Protection Act that address people. Ms. Worthington asked (re: the 20 criteria) did the presence of a sewer service area mean that a property would not be taken out of a sewer service area and put in FA? Mr. Liggett responded that she was correct. Ms. Worthington said that she felt that Galloway had shown that they would cooperate and that if the Commission wanted land, it should be purchased. The residents did not deserve to lose their economic livelihoods.

Mr. Eric Riso, municipal attorney for Winslow Township, referencing polygon #20, said that the management area changes had economic impacts on the Townships as well as the landowners. Also, he said that Winslow received a letter in November from the Commission indicating it was not the Commission's practice to provide written public notice to individual property owners.

Mr. Steve Frankel, owner of a 40 acres parcel across the street from #62 said that he had provided a letter from his attorney (*Attachment F; due to the lengthy attachments to Mr. Frankel's submission, only the cover is provided here but the complete record is included with the file copy of these minutes and is available for review*). He asked that the Commission take a closer look at the status of his land.

Mr. Joe Cafero, a 24-year resident of Egg Harbor Township, said that he saw this management area change as an unfunded mandate and that residents were being taxed out of their homes. He asked for more open discussion and sharing of information, meeting with officials, etc.

Mr. Jay Mounier, Franklinville resident, said that the Commission was proceeding too rapidly. The EIA science project has significant problems that have not yet been considered. He said that it seemed to be based only on one factor: forest cover. He said that it minimizes the negative impacts of contaminated sites. He criticized the Science Office's research and said that land uses with both positive and negative impacts have not been evaluated. He said that there is a

correlation between development and degradation but it is not the only impact. The EIA has made no determination as to what causes degradation. He asked if a blueberry field ~~w~~re really the same as a mine, a shopping center or a toxic waste dump; he said that the EIA project says that they are the same.

Mr. Monesson, Pemberton Township resident, said that this was the best meeting he'd ever attended. He said that today the public was saying what he had been saying for 30 years and that Pinelands residents have lost rights and economic opportunities.

Mayor Bassford said that Interchange #44 was a problem and that Stockton College needed that land to develop student housing to allow the students to live on campus, thus benefitting the entire community.

Acting Chairman Tomasello said that he had heard all these concerns and that this Commission was working for the benefit of all the residents.

Mr. Stokes said that today's meeting represents the beginning of the Committee's review. He asked that the Committee add additional meetings for the next three months to discuss only the EIA project and that the locations be moved throughout the Pinelands. The meetings would be noticed and advertised to the municipalities and, if possible, the meetings would focus on certain areas at certain meetings.

Commissioner Galletta asked if the blocks/lots of the affected lands could be provided to the landowners. He said that this was the biggest thing the Commission had done in 30 years and it was important to him that the residents be aware of this issue.

There being no other items of interest, the meeting adjourned at 12:43 p.m. (moved by Commissioner Ashmun and seconded by Commissioner Lloyd)

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