

*Adopted 4/06/09*

**CMP POLICY & IMPLEMENTATION COMMITTEE MEETING  
SPECIAL MEETING: REVISIONS TO LAND CAPABILITY MAP**

Southampton Township Municipal Building

Retreat Road

Southampton, New Jersey

March 23, 2009 – 1:00 PM

**MINUTES**

**MEMBERS IN ATTENDANCE:** Acting Chairman Norman Tomasello, Candace Ashmun, Stephen Lee, Ed Lloyd, Paul E. Galletta (2<sup>nd</sup> Alternate)

**MEMBERS ABSENT:** Leslie Ficaglia and Robert W. McIntosh

**OTHER COMMISSIONER PRESENT:** Robert Jackson

**STAFF PRESENT:** John Stokes, Larry Liggett, Susan Grogan, Paul Leakan, Paul Tyshchenko, Michael Yaffe, and Betsy Piner

Acting Chairman Tomasello called the meeting to order at 1:05 p.m. He noted the presence of Commissioner Haas in the audience today as Commissioner Haas recused himself from the discussion.

Mr. Stokes announced that Commissioner Kennedy was sorry that he was unable to attend today due to a personal commitment. As the Burlington County representative, the areas to be discussed today were of particular interest to him.

**1. Adoption of minutes from the February 18, 2009 Special CMP Policy and Implementation Committee meeting**

Commissioner Galletta moved the adoption of the minutes of the February 28, 2009 meeting. Commissioner Ashmun seconded and all were in favor except Commissioner Lee who abstained.

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

Mr. Stokes asked the Committee to recall that last Fall, the Planning staff had evaluated the Science Office's Ecological Integrity Assessment (EIA) and identified some 80,000 acres in the Pinelands that it felt would warrant a closer look in relation to appropriate land use. Based on a systematic review using extensive criteria, they identified some 131 specific recommendations involving changes in management area designation of some 48,000 acres. Following the last (February 18, 2009) Special Meeting, he had asked the Planning Office to merge some of those 131 areas and to look at them from a regional context to help the P&I committee focus on those map changes of regional significance. He said that today the Committee would be reviewing 11 recommended map changes,

each of which was at least 1,000 acres. He said that the Committee would be looking at the most significant changes to the Pinelands Land Capability Map since the inception of the CMP.

Mr. Stokes said that just because the Committee was not being asked to address all 131 original recommendations, it did not mean that they were not important. He said that he was proud of the work done and that all the changes appeared to be worthwhile. Staff will continue to work with the municipalities on clustering, density transfer and other adjustments utilizing this new information. For now, the P&I Committee can focus on these larger changes.

With assistance from Mr. Yaffe and Mr. Tyshchenko, Mr. Liggett gave a PowerPoint presentation, the first part of which (a review of the process as presented previously) is included here as Attachment A. He said that whereas the 131 previous recommendations had included 7 counties, the eleven polygons currently under review include only five; Camden and Cape May Counties are no longer under consideration with this examination. Today's review would focus on three changes in Burlington County and one in Ocean County.

Mr. Stokes referenced the charts that had been included with the meeting packets noting that these 11 polygons (identified as A thru K on the revised maps dated March 23, 2009) represent "the best of the best" (outside the Preservation Area District [PAD]), as evidenced by their EIA scores. The vast majority of the lands under consideration have a score = 80%. Those that score less are surrounded by development that reduces their EIA scores (polygons including Stockton College and lands within Egg Harbor Township's Regional Growth Area [RGA]).

Mr. Liggett provided an overview map indicating 10 polygons recommended as additions to the Forest Area (FA) and one recommendation to become Agricultural Production Area (APA). In the course of his presentation, he referred to the packet charts with the specifics for each polygon regarding recommended management area changes; case type (Case I: development oriented management areas to the PAD or FA; Case II: APA? FA; Case IV: PAD ? RGA, RDA, PT, PV or APA); polygon size in acres; EIA score; and percentage of vacant private uplands, lands in public ownership, wetlands and lands in active agriculture. The PowerPoint presentation included zoning, aerial, and wetlands maps for each of the polygons.

- ? Polygon A: Pemberton Township (east of Browns Mills) near the intersections of Routes 530 and 70; 92% of it is in the 70-100% EIA range; 80% of it is wetlands and that wetlands drainage is towards Browns Mills; only 2% is vacant privately-held uplands.

In response to Commissioner Lee's question as to where the 2% privately owned uplands were located, Mr. Liggett indicated that the information was not on these maps but he indicated the likely location and said that the location of privately and publicly held lands could be provided in the future.

Commissioner Galletta asked to have a meeting where the Committee can reconsider the EIA score that it wishes to use in determining those lands to be redesignated. He said that he was not sure, in general, that these are the lands the Committee wants to see preserved.

Mr. Stokes responded that the P&I Committee can examine whatever it wishes. Mr. Liggett had broken out the percentages and the maps were available. He said that he hoped that the Committee would look at the maps in the context of wetlands and public ownership.

Mr. Liggett said that if one looks at the 70% to 80% range on the chart for each area, one sees that, in general, a much smaller percentage of lands have these integrity scores when compared with a range of 70% to 100%.

Commissioner Galletta said that if the 70% to 80% scores were not included, the polygons would be less than the proposed 1,000 acre threshold and a management area change might not be considered.

Mr. Stokes asked the Committee to let staff know if there were specific sites of concern so that additional information could be prepared. He said that the selection of the 70% to 100% range is based on the Forest Area as it exists today and the basis on which it was originally designated. He said that although the Committee could go back and re-examine the criteria, he believed it would be more useful to use this range.

In response to Commissioner Lloyd's question if 70% represented the existing FA, Mr. Liggett reviewed slide 2 of the PowerPoint (*What is a High-Integrity Area*?) and said that 94% of all land in the FA is Pinelands habitat; 96% of that habitat has an EIA score of =70%. Staff felt that 70% was the reasonable place to make the cutoff for "High-Integrity".

? **Polygon I:** Mr. Liggett said that this is an area within Evesham and Medford Townships and he indicated the location of various features including the landfill, the Aerohaven site, Kings Grant and Route 73. He said that protecting this area was one of several recommendations included in the *Southern Medford / Evesham Sub-regional Natural Resource Protection Plan* (Medford-Evesham Plan). Mr. Liggett said that it includes DEP- and municipally-owned lands.

Commissioner Lee said that a new designation might affect the value of a property owner in developing his land. Ms. Grogan said that in such a case, a density transfer program (DTP) might assist, but agreed that property values would be affected.

Mr. Stokes said that generally, in the RDA, there is a greater variety of non-residential uses permitted than in FA. He said that there are relatively few non-residential uses that would be affected by a change from RDA to FA and there would still be opportunities for

expansion. He said that residential uses might not meet the bulk standards if there is a change RDA? FA and those lots would become nonconforming. One of the recommendations of the Medford-Evesham Plan was the creation of a DTP for a number of lots which are already nonconforming; that would give value to small lots that currently have no value.

Commissioner Lee said that he felt that these recommendations were difficult to grasp; this is different from traditional zoning changes with offsets.

Commissioner Ashmun said that when the Commission did the Medford-Evesham Plan, there were lots of analyses on which all those present agreed.

- ? **Polygon G:** Mr. Liggett said that this polygon is located south of the Route 70/Route 206 circle in the Bear Swamp area and includes lands in Tabernacle, Southampton and Medford; 93% of the property is in the 70% to 100% EIA score range and much of it is wetlands.

In response to questions from Commissioner Lee, staff said that there were several parcels involved, some of which are privately owned, and that the recommendations try to follow lot lines. Again, staff will bring a breakdown of public/private lands and the various integrities to the next meeting.

In response to a question from Commissioner Galletta if a utility line would change the integrity of the land and does the presence of infrastructure affect the integrity, Mr. Liggett said that yes, if present, power lines and roads are included.

- ? **Polygon C:** Mr. Liggett said that this polygon is in the Beachwood Borough/Berkeley Township portion of Ocean County and a portion that was excluded had been purchased by the County for active recreation. He noted that the state-owned Lipman bogs are in active cranberry production. Ocean County is comfortable with this proposal.

In response to Commissioner Galletta's concern that some of these lands were privately held and that a recommendation to rezone RGA lands to FA meant that these must be pristine lands, Mr. Stokes said that that just because there are lands in private ownership does not mean that the Commission should not consider rezoning them and that was the nature of process. Commissioner Galletta asked about the status of the upzonings that had been discussed previously (so called Case III). Mr. Liggett said that, as most of them were less than 100-200 acres they were excluded from this latest analysis. Mr. Stokes added that the municipalities may want to consider targeting those properties through the conformance process.

Commissioner Ashmun said that the Commission's responsibility was to look at the Land Capability Map and that the map today is far different than that adopted originally; the new data will be a tremendous help with the conformance process, i.e., municipalities

may want to implement some of the 131 recommendations not included in the eleven larger changes that the Commission is considering.

Mr. Stokes suggested that Mr. Liggett do a quick review of the remaining polygons (outside the four in Burlington and Ocean Counties) in case the Committee had questions for which staff could prepare to provide more detail at the next meeting.

Commissioner Lee said that he knew of areas of Atlantic County with which he was familiar for which these map changes did not make sense. He suggested that the 1,000 m. radius around the 10x10-m Pinelands habitat cells (as described in the Science Office's report) created too large a "lens" to properly evaluate the integrity of that habitat. He said that he was concerned with the rights of private property owners and wanted to see the results of the EIA as focused through a smaller lens. He felt that the smaller lens might give more information for making decisions.

Commissioner Jackson said that it might increase the EIA value of some areas. The more science that is provided, the better the information. He said that he was a "habitat person" and that wherever one can find it, habitat needs to be protected.

Mr. Liggett said that the rationale for the 1,000-m radius is discussed in the Science Office report. He agreed with Commissioner Jackson and noted that a smaller lens would affect the edge where the integrity would increase faster. He also noted that the 20 planning criteria were used to ground truth the 2002 integrity as the Planning Office wants to know where things stand today. Mr. Tyshchenko said that there were no aerials with accompanying land cover data available for 2007 at this time; however, staff had used up-to-date aerial for ground truthing, where available.

Commissioner Lee said that he suspected that sharpening the focus will provide better information. The Commission already has the 1,000-m. radius window; he wanted to check the integrity using a 500-m. radius.

Commissioner Galletta said that a 1,000-m radius is nearly 800 acres.

Mr. Stokes said that staff would go back and look at the sensitivity analysis. He said that the effort had been to look at the landscape, not every acre; a smaller window will minimize the area of disturbance outside the window. He said that it would be worthwhile to look at the map changes in relation to wetlands, uplands and parcel ownership and staff would bring additional information.

Mr. Tyshchenko noted that much of the information available would be best provided by a network connection (difficult to arrange at an off-site meeting).

Commissioner Lee said that there are areas mapped as non-habitat and yet he suspected that there are areas of good habitat within them.

Mr. Liggett said that Dr. Zampella had addressed “habitat” at the last meeting; the Science Office was looking at Pinelands habitat; there are other habitats. Mr. Liggett also noted that the 1000-m. radius encompasses the range of several T/E species of concern according to the literature.

At 2:28 p.m., Commissioner Lloyd announced that he regretted that he had to leave for another meeting but that he was interested in receiving the public comment.

- ? **Polygon D:** Mr. Liggett says that this large farm site in the middle of the FA comprises more than 1,000 acres in Maurice River Township, Cumberland County at the border with Atlantic County and that it has an unusual farming pattern; the recommendation is to redesignate it FA? APA.

Mr. Stokes said that originally the CMP established 1,000 acres as the minimum size of an APA but that municipalities could designate smaller APAs should they choose to do so. This follows the criteria and would warrant designation.

In response to Commissioner Lee’s question as to the use, Mr. Tyshchenko said that this was a horse farm. Mr. Liggett said that the Township was neutral as to the designation and that the land was owned by a single owner.

- ? **Polygon E:** Mr. Liggett said that this is an area of high integrity, little wetlands and serves as a division between two watersheds in the vicinity of Routes 55 and 47 in Maurice River Township
- ? **Polygon F:** Mr. Liggett said that these are lands in the vicinity of Stockton State College and the interchange of Exit #44 of the Garden State Parkway. He noted the unusual shape of the RGA and said that this was a sewer service area. Currently Stockton is performing T/E studies. They have a very wet site but want more development potential in the RDA portion. Staff is recommending a redesignation of part of the RDA to FA. He noted that at the last meeting a local landowner discussed his proposed development of 25 dwelling units. There is no CF issued yet but he is concerned about potential management area changes and wants to proceed with his project now. Mr. Liggett noted that Stockton has purchased some lands in the vicinity for offset for their proposed expansion.

Commissioner Galletta said that this was a contentious area as none of the lands received a 90% EIA score, 53% had a score of 80% or lower and 27% of the property was vacant land in private ownership.

Mr. Stokes said that it becomes a policy judgment. If these changes had no merit, the staff would have no interest in pursuing them. He said that he believed that this recommendation was still among the “best of the best” albeit it might be somewhat less than other areas. He said that when the Committee has additional information they might find the merit of this recommendation.

- ? **Polygon J:** Mr. Liggett said that this area is in the vicinity of Route 50 in Mays Landing, the County College, and Route 322 in Egg Harbor City and Galloway Townships. This is an area of high integrity with development along the edges. There is a large wetlands complex. He noted that Mr. Fred Akers, Director of the Great Egg Harbor Watershed Association had often referenced this area. Much of the land is deed restricted.

Commissioner Galletta said that he was familiar with the area and that much of it was state owned land. There is nice habitat but there is also sewer service.

Mr. Liggett said that there was no sewer service in this area. All RGA and PT management areas are sewer service *areas* but not all of them have sewer service.

Commissioner Galletta asked about the non-conforming lots. Mr. Stokes responded that if one has a current non-conforming lot in the RDA, it would remain non-conforming if the management area were changed to FA. He said that the information provided today does not show the depth to the seasonal high water table that would control whether or not septic is permitted. Mr. Liggett said that staff was awaiting receipt of Galloway's sewer service map that may affect the northern border.

Mr. Stokes said that whatever changes the Commission might make on a regional level, there will still be an opportunity to adjust and refine them at the municipal level. The rulemaking must be clear that there is that flexibility. He said that he was concerned that the Committee not deal with these "micro" issues at a conformance level, rather that they take a regional approach. He said that the Committee needed to have confidence that the adjustment process would be available for the municipalities.

Mr. Liggett said that staff had met with representatives of Hamilton Township and have requested the Master Plan for Atlantic Cape Community College in order to learn of their future plans, if any.

- ? **Polygon B:** Mr. Liggett said that these lands are adjacent to the Garden State Parkway in Egg Harbor Township. This is a large wetlands complex of high integrity, mostly in the RG-3 Zone; that wetlands system drains to the East, outside the Pinelands. The recommendation is to rezone it from RGA to FA.

Commissioner Galletta said that this area is surrounded by RGA and the Parkway; EHT is willing to preserve half of it but wants to dedicate the rest of it to commercial development.

Mr. Liggett said that the Township has zoned only a small commercial area at the NE boundary. Mr. Stokes added that Egg Harbor Township has been imploring the Commission for years to reduce residential development. He said that he found it remarkable that this extremely large natural system exists; this is an area where a lot of refinement could be done through the municipal conformance process. The area is not

zoned for commercial development and the Township has just gone through an extensive community planning process.

In response to Commissioner Galletta's comment that this would be removing 1,000 acres from a large RGA, Mr. Tyshchenko said that 80% of this polygon is wetlands, even without including the buffers.

Commissioner Ashmun said that the Commission wants to avoid a situation in which it is giving mixed signals, i.e., not rezone for development where environmental constraints will prohibit it.

- ? **Polygon H:** Mr. Liggett said that this was adjacent to Hamilton Township's industrial park on Route 40. It includes a large wetlands complex of high integrity, much of which is public lands. Staff is awaiting receipt of the Township's sewer service map that may affect the edge boundaries.
  
- ? **Polygon K:** Mr. Liggett said that this is the largest of all the areas under consideration, nearly 7,400 acres near the Black Horse Pike in the Townships of Monroe, Buena Vista and Franklin. There is an active mine in the center that was excluded, but otherwise an area of high integrity. The wetlands system drains to the Egg Harbor River. Staff has received no concerns from Franklin or Monroe; Buena Vista is concerned about the loss of ratables and believes that the mine should be in FA to limit development once the mining operation ceases.

Commissioner Lee said that he believed this would be an area to focus on. He asked that the maps for the two counties (Atlantic and Gloucester) be at the same scale so that one could better evaluate Polygon K.

Chairperson Tomasello called for Public Comment.

### **3. Public Comment**

Tabernacle Township Mayor, Rick Franzen, said that some 700-800 acres had been included in the previous iteration of the map changes and he asked what the schedule was for Phase II and how was the Township to deal with this. Also, why was the cut-off at 1,000 acres?

Mr. Stokes responded that there was nothing "magic" about 1,000 acres although it seemed to work as a minimal threshold for regional consideration. The P&I Committee could elect to establish a different threshold. In terms of Phase II, the Commission would not be forcing the remainder of the 131 possible changes on the municipalities. If the municipalities come forth with proposals, the Commission will take the remainder into consideration when responding to the municipal requests. Should the Commission take action on any of the eleven changes to the Land Capability Map, then they will work with the municipalities on this and other CMP changes such as clustering, DTP and affordable

housing. He said that the goal was to work with the municipalities on all these issues together.

Mayor Franzen said that the Tabernacle lands not included in the eleven flow out of the Wharton State Forest and are near lands recently purchased by the NJ Conservation Foundation and that they should be addressed.

Mr. Dennis Blazak, with the Naval Air Engineering Station (Lakehurst) read a statement (*Attachment B*) noting the need to prevent fragmentation and expressing concern with limiting management area changes to only those polygons = 1,000 acres.

Mr. Stokes said that the recommendations of the Joint Land Use Study (related to the megabase) are expected shortly and that the Commission will take them into consideration.

Mr. Fred Akers said that he believed today the public was reviewing the 5<sup>th</sup> set of draft maps, which makes keeping up somewhat difficult. He said that there is much public open space under consideration for RDA? FA for which rights were acquired to preserve the land. Furthermore, 50% of the lands in the latest map are wetlands, already protected by zoning. In 2006 the Pinelands Commission had presented the white paper on ambient water quality based on subwatersheds. One of its calls was to do more planning at the subwatershed level. Furthermore Babcock Creek in Hamilton Township was one of the areas for which recommendations were made through the Pinelands Excellence Program. In other words, there has been much previous planning that can be dovetailed to support this endeavor. He said that he saw the 1,000 m. window as a buffer for development.

Mr. Ed Markowski said that he currently owns lands in Polygon J, an R-5 zone, an investment property of 80 acres, 60 of which are developable. He expressed concern that his land would be devalued if it were changed to a FA 25 acre zone. Mr. Stokes invited Mr. Markowski to provide his block/lot information and staff would get back to him; the development of his land could also depend upon DTP or on-site clustering opportunities. Ms. Grogan noted that Hamilton has 10, 25 and 70-acre FA zones and his property would not necessarily be placed in a 25-acre zone.

Mr. Markowski asked why, if 95% of the land was already protected by wetlands and State ownership, is there a need to preserve the other 5%. Mr. Stokes responded that the large protected area could be compromised by additional development. When Mr. Markowski asked about PDC opportunities, Mr. Stokes said that this outside the PDC sending area; the PDC program is not the same as the DTP.

Mr. Dennis Kelly, an attorney representing a Jackson Township landowner, said that he was pleased that no recommendations had been made for changes to his client's property in which he has made a significant investment and received preliminary approval. Mr. Liggett added that he believed that Jackson Township is still interested in some such changes.

Mr. Jay Mounier, Franklinville resident, said that if the Committee were to drop the “high integrity” cut-off to 40%, it would encompass more T/E sites and DEP macrosites. He said that he was not in favor of using 70% as the criteria. He suggested that the Committee look at some photographs of sites with typical 70% high integrity scores and then compare them with the high integrity areas of the Pinelands and see what they thought. For instance there are lands with 80% and 90% scores in the Infill Area of Woodland Township along Route 72. There is no score as low as 70% in the Village of New Lisbon; it is all in the high area of =80% to 90% and this is due to the large window that includes Lebanon State Forest as well as the developed area of the Village.

Mr. Bill Fox, Jackson Township resident, said that he was a supporter of property rights and that the original CMP mapping had served well. Since that original map was created, property owners have purchased lands as investments to be developed in the future. The small amount of land that the Commission is trying to change is not worth the amount of pain that it will inflict. He said that the Pinelands Commission had developed a terrific program in the last 30 years but that he saw proceeding with these map changes now as a disservice.

Mr. Joe Springer, Chairman, Southampton Township Environmental Commission, said that he had submitted a position paper on the clustering amendments and said that the response document had not addressed their question. He said that clustering pushes people onto 1-acre lots and he was concerned with the nitrate dilution factors in those areas. He had asked for a scientific basis for the 1-acre lots and did not receive an acceptable answer. He said that it seemed that the Commission used the nitrate dilution factor only at its convenience. He said that his position was based on numbers provided by NJ DEP. He asked that the Commission look at the response document.

Mr. Stokes said that the CMP’s clustering standards would result in much lower densities than the DEP model, resulting in better protection of a parcel’s water quality especially in FA areas or if on-site treatment is included. Ms. Grogan said that Mr. Springer’s paper had been provided to all Commission members, and was included and answered in the response document which was endorsed by the Commission.

#### **4. Other Items of Interest**

Mr. Stokes said that the next Special Meeting of the CMP Policy and Implementation Committee to discuss proposed map changes was scheduled for 9:30 a.m. on Monday, April 6, 2009 at the Hamilton Township municipal building (Mays Landing, NJ).

The meeting adjourned at 3:35 p.m. (moved by Commissioner Galletta and seconded by Commissioner Lee.)

/CS15A