

Adopted April 24, 2008

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

Richard J. Sullivan Center / Terrence D. Moore Lecture Hall
15C Springfield Road
New Lisbon, New Jersey
March 27, 2009 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Acting Chairman Norman Tomasello, Candace Ashmun, Leslie Ficcaglia, Stephen Lee, Ed Lloyd, and John Haas (1st Alternate)

MEMBERS ABSENT: Robert W. McIntosh

STAFF PRESENT: John Stokes, Larry Liggett, Susan Grogan, David Kutner, Ed Wengrowski, and Betsy Piner

Acting Chairman Tomasello called the meeting to order at 9:32 a.m.

1. Adoption of minutes from the February 27, 2009 CMP Policy and Implementation Committee meeting

Commissioner Ashmun moved the adoption of the minutes of the February 27, 2009 meeting. Commissioner Haas seconded and all were in favor.

2. Update on the Township of Galloway and City of Egg Harbor City Pilot Off-Site Clustering Program

Ms. Grogan said that the Township of Galloway and City of Egg Harbor City Pilot Off-Site Clustering Program (the *Renault pilot program*) was the first pilot program established by the Commission and it was done so in 1996. She said that the pilot program was implemented by two municipalities (Galloway Township and the City of Egg Harbor City) that adopted ordinances to rezone lands and to allow the expansion of an existing nonconforming use, the Renault Winery, (a substantial tourist destination, at that time in Galloway's APA near the Pinelands Town area of both municipalities, served by 5 septic systems) balanced by a complementary offset of deed restricted lands, and the delineation of overlay districts within the two municipalities.

Ms. Grogan said that the initial (June, 2000) report on the program had been included with the meeting packet along with the initial resolution and Executive Director's report as well as a 2003 update on the program. In April, 2008, staff had notified the Committee that due to staffing constraints as well as issues related to the Renault project (outstanding violations and a pending application that staff hoped would be completed prior to the issuance of a new report) an update to the pilot program would not occur until 2009.

Ms. Grogan reviewed her report and noted that the goal of the pilot program was to determine if the land conservation and protection goals of the CMP could be met, or even advanced by allowing more intensive development in a newly designated growth corridor (along Bremen Avenue, the division between the two municipalities where limited sewer service would be extended) balanced by permanent conservation of lands outside that corridor.

After the Pilot Program was established, the Commission received an application for the Tuscany House, a hotel. Based on the floor area of the project, the applicant was required to protect some 280 acres based on a formula established in the CMP calling for 1.9 acres of open space for every acre of intensive outdoor recreation use and 0.24 acres for every 100 square ft of commercial floor area, allotted to both existing and new development. From the map, Ms. Grogan oriented the Committee and identified the location of the Tuscany House (in Egg Harbor City's Pinelands Town area) and the deed restricted lands in Galloway Township among other features.

The next application was for a golf course (and associated improvements) in both the RDA and PT of Galloway Township, requiring an offset of about 218 acres of open space. Those lands were preserved in Galloway's FA, thus resulting in the protection of a total of some 500 acres, all of which are located in Galloway. An application has been submitted for a driving range in Egg Harbor City's Pinelands Town area but it remains incomplete at this time, as do a number of violations related to the failure of the Renault owner to submit applications prior to proceeding with various site improvements.

In response to Commissioner Lee's question as to the land cover in Egg Harbor City, staff said that it was mostly forest. There are wetlands issues in Egg Harbor City which might be one reason why the driving range project has not proceeded as originally planned.

Ms. Grogan said that the staff has concluded that the program has worked as originally envisioned. The expansion of the Renault facility has proceeded, it has been sewerred, and significant open space in the FA has been protected. Although the original projection was that as much as 1,600 acres might be protected, it does not appear likely at this point. Staff sees no reason to allow this pilot program to expand elsewhere as this seems to have been a unique situation. However, during Phase II of the EIA project, staff may want to review its sewer service policies and examine the Renault program as a means of addressing existing uses. In response to Commissioner Ashmun's question regarding the projected amount of open space, Ms. Grogan said that one issue had been the calculation of what portion of the golf course (just the greens? the fairways also?) would require an offset.

Commissioner Ashmun moved the recommendation to the Commission that the Township of Galloway and City of Egg Harbor City Pilot Off-Site Clustering Program be allowed to continue. Commissioner Haas seconded and all were in favor.

3. Septic Management

Mr. Stokes said that staff was ready to proceed with the proposal of rules related to a septic management program.

Acting Chairman Tomasello commended Mr. Wengrowski on his recent presentation before the Pinelands Municipal Council.

In thanking Commissioner Tomasello, Mr. Wengrowski said that the presentation had been one of the more successful sessions of the many he has conducted with municipalities and counties.

Mr. Wengrowski said that he would highlight the changes in the latest version of the draft rules (included in today's meeting packet) and that they consisted mostly of the correction of typographical errors and the tweaking of definitions to be sure that they were consistent with those of DEP.

Mr. Stokes noted that DEP as well as the Commission's own septic advisory committee had reviewed this document.

Commissioner Ashmun said that she felt a warning was needed to caution homeowners as to what not to put in their systems, perhaps literature to be distributed by those who pump the systems.

Mr. Wengrowski said that during the extensive outreach meetings, this had been discussed. He said that DEP's regulations are very clear and that staff saw no reason to duplicate that information in the rules. He concurred that education was the most critical component of an effective program. He said that DEP requires that the managing entities, primarily health departments, distribute educational materials periodically. He said that staff saw that as a program element, rather than something to write into a rule.

During the ensuing discussion, it was determined that the DEP rules could be cross-referenced in both the front end material as well as the rules themselves. Ms. Grogan identified 7:50-3.39(a)2.x as the appropriate citation where DEP's rules should be referenced.

Some other corrections noted were that the blank page 24 was a formatting error and that the word "license" had been omitted from the terms "treatment works operator's ____ ..issued by the NJ DEP" in the definition of a "Qualified service technician".

Mr. Stokes said that some municipalities were concerned with the potential cost of implementing a septic management program and saw it is a state mandated program, the cost of which was a burden to the municipalities.

Commissioner Lloyd moved the recommendation to the Commission of the proposal of rules relating to the creation of a septic management program. Commissioner Ficcaglia seconded.

Commissioner Lee said that there was not much detail in the Economic Impact statement as to the cost to homeowners. He asked if there were a way to fold an implementation plan into these rules so that it could be shown how a septic management plan might work.

Mr. Wengrowski said that the report prepared by Stone Environmental entitled *Onsite Wastewater Treatment Systems Manual for the New Jersey Pinelands* had been referenced on page 5 of the background material and Ms. Grogan noted that the link to the report on the Commission's website could also be included. Mr. Stokes added that the matrix regarding a baseline program could be extracted from the Stone's report and included with the rules.

In response to Commissioner Lee's question if there were a need to be more specific regarding a timeline for implementation of a septic management program, Mr. Wengrowski said that, in a broad sense, the Commission recognizes that the municipalities will need time to develop a program and adopt an implementing ordinance. Ms. Grogan noted that the background material (p. 12) reflects a transition period of 1-2 years.

Commissioner Ashmun said that it will take some time for the municipalities to implement a program and somewhere it needs to be said that a smart homeowners will maintain their systems in order to prevent a \$10,000 bill when the system fails and must be replaced. She said that this is part of the education component. Also, a homeowner does not need to wait for the municipality to implement a program in order to maintain the system properly.

Commissioner Lee said that not every homeowner will be smart and that he felt that all should be advised of the date by which a program should be in place.

Mr. Wengrowski said that under the water quality standards, DEP has said that the municipalities have to be moving towards implementing a septic management program by April 2009.

Ms. Grogan said that staff was trying to provide some flexibility and recognizes that the municipalities may be on different schedules. She said that, if adopted, these rules will not be in effect until December, 2009 at the earliest and then the municipalities will have a year to adopt the implementing ordinances. She said that it was important that this rule move forward as quickly as possible since DEP's rules were already out there. Mr. Stokes added that he was concerned that the septic management rules not follow the tortuous path of the stormwater rules which had put the municipalities in a difficult position of trying to reconcile the differences between the requirements of the two agencies.

The Committee noted that even if the Commission were to do nothing, the municipalities were obligated to meet DEP's septic management requirements. Being a Pinelands municipality was to their advantage as they would be provided with a model ordinance, something not available to the non-Pinelands municipalities.

The vote occurred and all were in favor.

4. Wetlands Restoration

Commissioner Ashmun recused herself from this discussion and moved into the audience.

Mr. Kutner said that at the Committee's last discussion, they had identified three major issues related to wetlands restoration: the source of plant materials used for restoration projects; project monitoring and long-term restoration plans; and limitations on practices that might result in adverse impacts. He reviewed his packet memo (dated March 12, 2009) and indicated how each had been addressed.

He said that the language related to the source of plant materials has been revised to indicate that the goal is to obtain them from areas proximate to the site or from locally native naturally occurring sources. He noted that the DEP (NJ Forest Service) Forest Research and Education Center (FREC) in Jackson Township and the USDA facility in Cape May (Natural Resources Conservation Service's Cape May Plant Materials Center) both provide the GPS coordinates for their seed sources.

At the request of the Committee, Mr. Kutner said that those sources would be identified in the background materials of the rules.

Mr. Kutner said that the Committee's concerns with aerial herbicide applications were addressed by requiring the applicant to address the measures to be taken to avoid drift into non-target areas.

Commissioner Ficcaglia said that she had asked about prohibiting any aerial spraying and Mr. Horner had told her that it was reviewed on a case-by-case basis. Mr. Kutner said that staff had discussed this and found that there are some cases in which aerial spraying is the best method.

Commissioner Ficcaglia said that she believed that the burden should be on the applicant to demonstrate as much.

Mr. Stokes said that proposed 7:50-6.10(a)1. (Wetlands Management) indicates that the wetlands management techniques utilized to establish a characteristic wetlands are permitted only if they “are required” in order to meet the objective (establishing a wetland or removing an exotic plant species or Phragmites). He said that in the front part of the rules there can be clarification that any method must relate to the need. He said that it was not the Commission’s desire to make applicants go through a detailed analysis.

Commissioner Lloyd said that the applicant needs to show a need to use a particular technique and needs to show that the method selected is the least harmful. He said that he did not want to require a 50 page environmental impact statement

Mr. Kutner said that the proposed rules do include rather extensive monitoring requirements with the aim of making sure that the plants proposed for restoration will have the desirable characteristics to grow at the site, e.g. once Phragmites are killed using herbicides, the desired plants will be able to occupy that site and grow and thrive.

Commissioner Lee said that he recalled there being a number of non-Pinelands nurseries that could provide appropriate plant materials. Mr. Kutner said that many of those nurseries participated in the Commission’s native plant sale last fall (*Pinelands-Friendly Yard & Garden Fair, September 20, 2009*).

Referencing 7:50-6.10 (a)6. (*the applicant analyzes and certifies that no adverse off-site impacts, including material changes in stream flows, shall occur; and*), Commissioner Lee said that he didn’t know how one could preemptively certify that nothing bad would happen; sometimes adverse results will occur.

Mr. Stokes said that he agreed; one does one’s best but there is no guarantee. He said that staff had discussed this and did not like “demonstrate” as it would mean that staff would be required to do an analysis of the applicant’s submission for which staff might not be qualified. He said that it would not be fair to the applicant because staff might not have the requisite expertise. Thus, staff ought to rely on the applicant’s certification. He suggested the standard be reworded to make clear the Commission’s expectation is that an applicant will analyze and certify that appropriate measures will be taken to prevent adverse off-site impacts. The Committee concurred.

In response to Commissioner Lee’s question as to what would happen if the applicant allowed off-site impacts to occur, Mr. Stokes said then the injured party would seek redress. The Commission expects the applicant to be judicious and not be careless. The Commission would have the authority to tell the applicant that the activity must cease should it become necessary.

Commissioner Ficcaglia said that, with the Commission’s lack of enforcement power, there was all the more reason to make sure that no adverse impact is allowed to begin with.

Mr. Stokes said that in the stormwater requirements, there is a requirement for a mounding analysis to make sure that neighboring basements do not flood. The Commission has developed a certification for an engineer to use on a case-by-case basis. He said that he suspected that this would be comparable to the certification that would be required for controlling management techniques for wetlands restoration.

Commissioner Lloyd moved the recommendation to the Commission of the proposal of rules relating to wetlands restoration. Commissioner Ficcaglia seconded. All were in favor except Commissioner Ashmun who had recused herself.

Mr. Stokes noted that, as Mr. Catania, Chairman of the Forestry Advisory Committee (FAC), who was to participate in the discussion of the forestry rules, had not yet arrived, the agenda sequence would be adjusted and the PDC discussion would follow.

5. PDC Program Reexamination

Mr. Stokes stated that the Commission's counselor, Ms. Stacey Roth, was unavailable due to a family emergency, thus could not guide the Commission members through the recusal process. Mr. Stokes said that it was not his intent to have a lengthy discussion today but rather to bring to the Committee's attention some sections of the proposed Pinelands Development Credit (PDC) rules that need special attention. He said that the recusal question was not as critical at this juncture as during later discussions. He advised those Commissioners present to recuse themselves if they, a close friend or relative, or an organization with which they were affiliated met any of a number of conditions: they owned lands in APA, PAD or SAPA which are eligible for PDCs (if all the PDCs had been severed and sold, then recusal was not necessary); they owned land in the Forest Area which potentially could become eligible for a PDC allocation under this proposal; or they owned lands in Pinelands RGA or Town that are not already developed.

Commissioner Ashmun recused herself and sat in the audience.

Prior to leaving the meeting, Commissioner Lee said that he had hoped to have a discussion as to how the Commission can meet the mandate of the Pinelands Protection Act while satisfying the requirements of the SEC. Mr. Stokes said that the issue would be pursued and a representative of the SEC would again be asked to attend a future Commission meeting.

Commissioners Haas and Tomasello left the room. This left only Commissioners Ficcaglia and Lloyd at the table. Mr. Stokes noted that this lack of Commissioners who could discuss the PDC program reflected his concern that when it came time for a vote, e.g. to publish a rule proposal, there might not be an adequate number (eight) who could participate.

Mr. Stokes said that the staff is recommending changes to the PDC program and that they relate closely to other recommendations including the management area changes and the affordable housing rules. He said that Ms. Grogan was drafting rules for affordable housing in the Pinelands and he anticipated that staff would have a preliminary set of principles for the Committee's review at its next meeting. He said that in order to provide guidance to the municipalities, it was important that these efforts be well coordinated. He said that he hoped that the Commission would be able to consider them in June, as separate documents, but all at the same meeting.

Mr. Stokes provided a brief summary of the packet documents related to the PDC program and noted that he would highlight the items requiring particular attention. He said that the March 20, 2009 draft rules follow the recommendations as outlined in the September 28, 2007 Policy Recommendations. He said that currently, the CMP has different standards for Pinelands Towns and Villages (7:50-5.27) vs. Pineland Regional Growth Areas (7:50-2.8) relating to such things as density, PDC use, variances and wastewater. Staff is recommending that the standards for Pinelands Towns now be included with those of Regional Growth Areas. This and additional

recommendations will require changes throughout the CMP including those for definitions, certification requirements, permitting issues, permitted densities, PDC allocation formulas, etc.

Mr. Stokes noted that the Pinelands Infrastructure Trust Fund (PITF) Act offers capital assistance for projects in growth areas. By creating a new definition of RGA to include Pinelands Towns, it will broaden the area where these funds can be used.

During further review of the draft rules, he said that the intent was to make sure that the CMP growth policies are not undermined (to reduce the amount of development) without just cause. In response to Commissioner Lloyd's question if that were to assure that affordable housing obligations are met in the Pinelands, Mr. Stokes said that it would have that effect as providing affordable housing at low densities is nearly impossible.

Mr. Stokes said that the recommendations of the Housing Task Force (HTF) are recognized in this proposal. Referencing page 10 of the draft rules he said that some eight or nine years ago the Commission had allowed a reduction in the growth area densities; that provision has now been eliminated. The HTF has recommended minimum average densities of 3.7 du/private upland acreage in sewerred areas and 1.5 du/private upland acreage in unsewerred areas. These are goals to achieve reasonable development patterns and not consume land in a wasteful way.

Referencing page 11, Mr. Stokes said that there would be no PDC obligation for the development of the affordable housing component of a project. It is the density of a development that triggers a PDC obligation and it is based on the design of the project. PDCs are required on a sliding scale based on the density of the project; however, if a project segregates the affordable units in an area separate from the market rate units with two separate densities, then the developer is not allowed to average those densities.

Mr. Stokes referenced page 12 and noted that based on the fiscal stress project of staff Economist, Tony O'Donnell, certain municipalities, e.g., Chesilhurst and Buena Boroughs among others, may seek Commission consent modify the PDC obligations for redevelopment projects, appropriate to their lower housing and land costs.

Mr. Stokes said that the existing section of the CMP related to municipal variances is complicated and unwieldy to administer. Under the provisions described on page 13, it would be greatly simplified.

Mr. Stokes said that PDCs may be allocated to the FA at the discretion of the Commission in ecologically sensitive areas as reported in the EIA study, provided they do not undermine the density transfer or clustering programs.

Mr. Stokes clarified that for agricultural employee housing related to a parcel from which PDCs have been severed, there is no penalty and no PDC obligation for such migratory/farm labor housing.

In response to Commissioner Lloyd's question if it was known which Commission members would be able to vote on any PDC proposal, Mr. Stokes said that he had hoped to begin a discourse with Ms. Roth and DAG Valerie Haynes as there are many issues to be addressed.

Forestry

Commissioners Tomasello and Haas returned to the room at 11:10 a.m. Commissioner Ashmun remained in the audience.

Mr. Stokes said that the Forestry Advisory Committee (FAC) had issued its report two years ago recommending a number of changes to the Pinelands Commission's forestry policies in order to better position forestry in the Pinelands. Late last year draft rules had been prepared and they have been reviewed by various committees over the past few months. He said that staff believed that the Commission should consider authorizing proposal of these rules in order to obtain further public review.

Mr. Stokes said that, at its March 20, 2009 meeting, the Agricultural Advisory Committee (AAC) had reviewed the rules and that today he would summarize their concerns and suggestions. He said that these rules are not perfect from anyone's vantage point and that there are many different opinions regarding stewardship, appropriate silvicultural practices, etc.

At 11:15 a.m., Commissioner Galletta arrived and sat in the audience.

Mr. Stokes said that he AAC had asked that an economic viability study be done by a credible outside entity prior to these rules being advanced. Staff does not feel that this would be productive and that the advancement of these rules will better position forestry than it currently exists. If the Commission has an interest in such a study, it can be considered but the rules should not be further delayed at this point.

In response to Commissioner Lloyd's question regarding the concerns of the AAC, Mr. Stokes said that some members had a philosophical disagreement as to what commercial forestry should look like in the Pinelands. Mr. Stokes said that Pinelands forestry will not be the large scale forestry programs of the South although some members believe that they should be permitted.

Mr. Stokes said that the AAC also voted to recommend that the Commission not consider the forestry rules until the concerns of the AAC regarding the State Ethics Commission's (SEC's) ruling are addressed.

Mr. Stokes said that although as an individual he might disagree with the SEC ruling, it was binding. He said that the Commission should not allow the ruling to paralyze it, although he did understand why some feel that a change to the ruling should be pursued.

Mr. Stokes said that the 3-1/2 hour AAC meeting had been an all-encompassing discussion of the forestry rules and he highlighted those concerns for which staff was not recommending any changes:

- scale of forestry opportunities that are appropriate
- certain limitations on silvicultural practices that are tied to certain forest types (staff had already addressed some recommended changes to herbicides and site preparation)
- forestry conversion: the staff is relying upon the CMP standards used for the last 10-12 years; it has served property owners well and addresses concerns that will prevent large sweeping conversions of native forest types. Some AAC members felt that there should be no limitations on the converting of one forest type to another

- concern with the acreage limitations on harvesting: the AAC felt that it was not equitable to larger landowners

Mr. Kutner offered further clarification and said that the limit is 300 acres or 5% of the parcel for clearcutting and 500 acres or 10% for coppice or seed tree cutting. In each case, the greater number would be permitted.

Mr. Stokes said that these different types of harvests are additive and that staff and the FAC believe that the rule provides more certainty as to permitted forestry activities.

In response to Commissioner Lloyd's question regarding the size of forestry projects, Mr. Catania said that the cutting limits are more liberal than any ever requested under the current CMP standards.

Mr. Stokes said that the AAC was also concerned that the rules do not permit the planting of hybrid species. He said that not only did staff not recommend that they be allowed, they also believed that there was no need. He said that the FAC recommendations prohibit the use of hybrids at the recommendation of one of the most notable foresters in the State (Dr. John Kuser, Rutgers University).

Staff distributed a document (*Attachment A*) identifying a number of clarifications to the February 19, 2009 rule proposal which Mr. Kutner reviewed.

- o The definition of "Disking" had been revised. The intent is not to regulate the activity in great detail, rather to provide a clear definition.
- o The term "invasive species" has been replaced by exotic (non-indigenous to North America plant species or Phragmites) to mirror the terms used in the proposed wetlands restoration rules.
- o The herbicide treatment provisions reference a practice as being *practical*, rather than *feasible*, in recognition that some feasible techniques might be prohibitively expensive. Mr. Stokes said that the AAC wanted some clarification; a practical technique would be one that would satisfy both technical and economic needs. Mr. Catania added that the AAC was also concerned with the limited use of herbicides in the pine-shrub oak forest; the FAC felt that spot application, e.g. back-pack spraying, was appropriate. In response to Commissioner Ficcaglia's question as to why "spot" application was being removed from the draft rules, Mr. Stokes said that the change is meant to show that herbicidal application will be the exception and permitted only in areas where pine regeneration is the goal, i.e., the use of herbicides is permitted only when a pine-shrub oak forest type is being converted to pine. Mr. Catania says that the rules are dealing with impact, not the method of application. Commissioner Ficcaglia said that herbicides are dangerous and it is better to use as little as possible; she suggested that the terms *targeted*, *controlled*, or *limited* application be used. Mr. Stokes said that in the lengthy discussions by the FAC, the concern was that it would be construed as a geographic limitation. Mr. Kutner said that Mr. Bob Williams had said that the foresters felt that in those areas where they are allowed to do management activities, they needed the flexibility to use the appropriate techniques. Commissioner Lloyd said that the herbicide use should be targeted at the area being managed. Mr. Catania responded that he thought that would work.

Commissioner Haas said that it was his assumption that most forestry activities will occur on farm properties. Mr. Catania responded that he didn't think that the FAC had that information. He said that the big forestry applications have come from farmers with large forested areas. Mr. Stokes added that the Commission had received an upwelling of concern from the farm community.

Mr. Catania said that the farming community feels that precedence is being set with limiting species, that there is a generic concern that the Commission should not tell individual property owners what they can do on private land, and that with an absence of farmers from the FAC, they were not represented. Mr. Catania said that this had been a transparent process and he didn't believe that the outcome would have been different.

Mr. Stokes said that there are two things at work: the philosophical concern related to the Commission's obligation vs. allowing landowners to do whatever they want on their land and the issue that if it isn't perfect, it is terrible. The Commission cannot allow perfection to be the enemy of progress. He repeated that he felt that forestry in the Pinelands would be better positioned under these rules.

Commissioner Haas asked if it would be worthwhile to take a pause and have further discussion with the AAC.

Mr. Stokes responded that there had been members of the AAC as well as others affiliated with the AAC who had been very involved with the FAC. Staff had held their first discussion on the forestry rules with the AAC in September, 2008 and he said that he found it hard to say that there had not been ample time for discussion.

Commissioner Haas said that he had noted previously the tremendous job by the FAC.

Mr. Catania said that the fact that the FAC report was unanimous is significant; if the Commission were to honor all the requests from the AAC, then the consensus of some FAC Committee members would be lost. It was a fine balance that brought about the consensus of the FAC and it should not be whittled away.

Mr. Stokes said that he wanted to talk about the process and to remind the Committee of what the staff has gone through. He said that a number of changes recommended by the AAC from both their September 2008 meeting and those presented to the Committee today have improved these rules. He said that Acting Chairman Tomasello had received a letter (*Attachment B*) from Russell F. McLaughlin, President of the Burlington County Board of Agriculture, regarding opposition to the forestry rules. He said that staff had already addressed some of the concerns but was not about to allow wholesale conversion of native forest types.

Mr. Stokes said that much time had been spent on developing these rules and probably more people were consulted for this project than for any other except possibly the Housing Task Force. There were many opportunities for public comment and input along the way.

Commissioner Lloyd said that he was glad to have the comment received today; he had not wanted to advance the rules without first hearing the comments of the AAC.

Mr. Kutner proceeded with his review of the revisions listed in *Attachment A* noting that most of them resolve ambiguities.

- The application requirements on p. 31 (14) were revised by removing language that one member of the AAC felt established a standard for regeneration, rather than providing application-related information.
- On p. 32, the language parallels that in the wetlands restorations rules related to exotic plant species
- On p. 41, the reference to fuel breaks is removed because this is not an activity defined as “forestry”
- On p. 44, revised language specifies 7, replacing a range of 7 to 12, as the number of dominant residual seed trees to be retained

In response to a discussion related to Forestry Standards regarding spot herbicide applications (p. 39), Ms. Grogan provided language that satisfied the Committee’s concerns with 7:50-6.46(a)9ii(5) In Pine-Shrub Oak Native Forest Types, herbicide treatments shall be permitted only in areas where pine regeneration is the management objective identified in the forestry application submitted pursuant to N.J.A.C. 7:50-6.44. All such herbicide treatments shall be applied in a targeted manner so that there will be no significant reduction in tree or shrub-oak re-sprouting outside these areas.

Mr. Catania said that he felt that revision would provide the landowners with the flexibility they requested while still protecting the resources.

The Committee called for public comment prior to voting.

Mr. Bill Fox, a member of the Agricultural Advisory Committee (AAC), said that he thought that the development of the FAC report had been a terrific project but he felt that there was a breakdown in communication between the FAC and the AAC. He said that the AAC felt that the original charge to the FAC had been to perform an analysis of the economic status of forestry which was not done. Also, he said that he didn’t believe that there was a big move afoot to promote plantation farming but farmers wanted more assurance that forestry would be economically viable under these new rules. He said that there had been many compromises in the FAC report and that he didn’t feel that the AAC expected to have *carte blanche* to do whatever they wished on their properties, but he felt that it was reasonable to provide the opportunity for the AAC to respond to the Committee’s discussions today. He said that he believed that there had been an adversarial relationship between the farmers and the Commission; the Commission had asked for input but, if these rules were to be advanced without further input from the AAC, he felt that the trust would be further eroded.

Acting Chairman Tomasello said that the Committee would continue to advance these rules and that there were still opportunities for public comment.

Ms. Jaelyn Rhodes, with the Pinelands Preservation Alliance, said that although she had not personally participated in the meetings of the FAC, both Executive Director Carleton Montgomery and Board member Lee Rosenson had attended many meetings. She said that the environmental community believed that much progress had been made. Referencing the discussion of spot application of herbicides, she said that proposing a particular technique in a specific area controls the impact. Also, PPA believed that promoting natural regeneration, rather than artificial, was a strong component of the rule and a means of reducing the chance of the introduction of exotic species.

Commissioner Lloyd said that he did not want to cut off the discussion with the AAC and that publication in the NJ Register would still provide an opportunity for further comment. Also, he

said that if Ms. Rhodes had a definition of “spot” application, he would be interested in hearing it.

Commissioner Lloyd moved the recommendation to the Commission of the proposal of rules relating to forestry. Commissioner Ficcaglia seconded. All Commissioners present (Lloyd Ficcaglia, Tomasello and Haas) voted in favor. Commissioners Galletta and Ashmun were in the audience so did not participate in the vote.

Mr. Stokes said that many of the changes to the draft rules over the past few months are the types of changes that can be made through the rulemaking process. In fact, 90% of the comments received are just that sort of change. He said that he didn’t think that the rulemaking process would shut out further review by the AAC, whose comments had helped to clarify these rules. He said that once the rules are proposed, the FAC and the AAC will be asked to take another look and see if there were additional changes that they’d like to see.

6. Public Comment

Commissioner Ashmun returned to the dais for the Public Comment session.

Ms. Rhodes said that PPA was pleased to see that the PDC rules were being advanced. She said that revisions to the draft rules that promote mixed use development will promote affordable housing. However, she said that she was concerned with preventing the growth areas from reducing their densities noting that with mixed use and townhouse development, one can still achieve density. This was an issue she expected to address in the future. Regarding the wetlands restoration rules, she noted that the Division of Fish and Wildlife utilizes a technique to start fires using an aerial drop of potassium permanganate. She said that one needed to know the impacts on water quality stemming from this method.

8. Other Items of Interest

There being no other items of interest, the meeting adjourned at 12:27 p.m. (moved by Commissioner Lloyd and seconded by Commissioner Haas).

/CS15A

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

Richard J. Sullivan Center / Terrence D. Moore Lecture Hall
15C Springfield Road
New Lisbon, New Jersey
March 27, 2009 - 9:30 a.m.

SUMMARY

The Committee adopted the minutes of the February 27, 2009 meeting.

The Committee reviewed the status of the Galloway-Egg Harbor City Off-Site (“Renault”) Pilot Program and recommended continuation but no further CMP change.

The Committee recommended that the Commission propose rules related to:

- Septic system management
- Wetlands restoration
- Forestry

The Committee reviewed draft rules related to the PDC program.

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Special Meetings of the P&I Committee were held:

Monday March 23, 2009 at the Southampton Township Municipal Building : The minutes of the February 18, 2009 Special Meeting were adopted and the Committee discussed Land Capability Map changes focusing on Burlington and Ocean Counties

Monday, April 6, 2009 at the Hamilton Township Municipal Building. The Minutes of the March 23, 2009 Special meeting were adopted and the Committee discussed Land Capability Map changes focusing on Atlantic County.

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