State of New Jersey
THE PINELANDS COMMISSION
PO BOX 359
NEW LISBON, NJ 08064
(609) 894-7300
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PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan
Chief Planner

Date: June 19, 2019

Subject: June 28, 2019 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on June 28, 2019. We have also enclosed the following:

- The minutes from the Committee's May 31, 2019 meeting; and
- A draft amendment to the Pinelands Infrastructure Trust Fund Master Plan.

/CS15
cc: All Commissioners (agenda only)

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CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey

June 28, 2019

9:30 a.m.

Agenda

1. Call to Order

2. Pledge Allegiance to the Flag

3. Adoption of minutes from the May 31, 2019 CMP Policy & Implementation Committee meeting

4. Pinelands Infrastructure Trust Fund

    - Review of proposed projects and recommended funding priorities
    - Discussion of proposed schedule

5. Review of draft CMP amendments for coordinated permitting

6. Briefing on draft Kirkwood/Cohansey water supply policies and regulations

7. Public Comment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING
Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
May 31, 2019, 2019- 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Sean Earlen, Jordan Howell, Ed Lloyd

MEMBERS ABSENT: Candace Ashmun and Robert Barr

OTHER COMMISSIONER PRESENT: Mark Lohbauer (as a non-member of this Committee, Commissioner Lohbauer did not vote on any matter)

STAFF PRESENT: Nancy Wittenberg, Stacey Roth, Larry L. Liggett, Susan R. Grogan, Charles Horner, Robyn Jeney, Ernest Deman, Brad Lanute, Kim Laidig, Paul Leakan, and Betsy Piner. Also in attendance was Craig Ambrose with the Governor's Authorities Unit.

1. Call to Order

Chairman Prickett called the meeting of the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee to order at 9:35 a.m.

2. Pledge Allegiance to the Flag

All present pledged allegiance to the Flag.

3. Adoption of minutes from the March 29, 2019 CMP Policy & Implementation Committee Meeting

Commissioner Earlen moved the adoption of the March 29, 2019 meeting minutes. Commissioner Lloyd seconded the motion. The minutes were adopted with all Committee members voting in the affirmative.

4. Pinelands Conservation Fund Land Acquisition Program - Consideration of a request from the Rancocas Conservancy for advancement of funding prior to closing

Ms. Jeney provided an update on the status of Pinelands Conservation Fund (PCF) projects. (*Attachment A to these minutes and located on the Commission's web site at*

https://www.nj.gov/pinelands/home/presentations/2019%2005%2031%20PI%20mtg%20advanced%20funding%20request.pdf) She stated that the Rancocas Conservancy has requested payment in advance of closing for the Katz project in Pemberton Township. This is the last of the four projects to which grants were allocated in 2017. She reviewed the features of the Katz project, including its location adjacent to some 37,000 acres of permanently protected lands. She said the Pinelands Preservation Alliance had been assisting the Rancocas Conservancy with the cleanup of the property, which has suffered much off-road vehicle abuse. She said the scheduling of a closing date had been delayed because the New Jersey Department of Environmental Protection (NJDEP) Green Acres program wanted to see all cleanup completed prior to its approval of the property survey and payment of its contribution towards the project. Ms. Jeney said the anticipated closing date is June 21, 2019 and, should the closing not occur within 30 days after that date, the Rancocas Conservancy is obligated to return the funds to the Commission.

Commissioner Lloyd moved the approval of payment to the Rancocas Conservancy in advance of closing for the purchase of the Katz project in Pemberton Township. Commissioner Earlen seconded the motion and all voted in favor.

Ms. Jeney confirmed Commissioner Lloyd's statement that it is the P&I Committee that has final determination as to the awarding of an advance payment, not the full Commission. Also, she noted, one of the other 2017 projects had been paid less than originally anticipated so that not all of the funds that were allocated during this round will be expended.

Chairman Prickett said it was great to see this property preserved since it is in the vicinity of Brendan Byrne State Forest and the Whitesbog historic village.

Chairman Prickett recognized Commissioner Earlen for having chaired this Committee for the past three years and said he hoped to be as efficient and as courteous has he had been.

5. Executive Director Reports

Dennis Township Ordinance 2019-01, Amending Chapter 185 (Zoning) of the Township's Code by revising the boundaries of Belleplain and Dennisville Villages

Ms. Grogan said Dennis Township Ordinance 2019-01 revises the boundaries of the Pinelands Villages (PV) of Belleplain and Dennisville to follow lot lines, recognize existing development and reflect development potential. She directed the Committee to the exhibits from the Executive Director's report.

Ms. Grogan said Dennis Township had identified an issue at the site of its recreation park containing football fields, bleachers, basketball courts and other amenities in the PV portion of two lots that extend into the Forest Area (FA). Dennis would like to expand the recreation facilities but such intensive recreation is not a permitted use in the FA. She said having such

facilities on split lots with disparate permitted uses in each management area is difficult to administer. Sometimes, it is difficult to determine exactly where the boundary lines are located. She said staff had suggested that, while addressing this issue, Dennis look at other split lots as well as publicly owned lands, noting that NJDEP has been actively purchasing lands in the area to add to Belleplain State Forest within the last 10-15 years. She said adjusting the boundaries would recognize the lack of development opportunities on vacant publicly owned lands. Ms. Grogan said Ordinance 2019-01 adds twelve acres to the Pinelands Village of Belleplain to accommodate the recreation facility. Offsetting this is the rezoning of 51 acres of vacant publicly owned lands to the FA from the Villages of Belleplain and Dennisville. The resulting management area boundaries will now follow lot lines. The new FA zoning will better reflect existing public ownership and lack of development potential.

In response to Chairman Prickett's question if there were a violation at the recreation site, Ms. Grogan said yes and the zoning change should allow it to be resolved. Mr. Horner added that development had occurred absent an application to the Commission.

Commissioner Lloyd moved the recommendation to the full Commission of the certification of Dennis Township Ordinance 2019-01. Commissioner Howell seconded the motion and all voted in favor.

Pemberton Township Ordinances 12-2019 and 13-2019, Adopting the Rowan College at Burlington County Redevelopment Plan and the Former Burlington County Minimum Security Corrections and Work Release Center Redevelopment Plan

Commissioner Howell stated that as an employee of Rowan University he would recuse himself from the discussion of ordinances submitted by Pemberton Township and he left the room. This resulted in the loss of a quorum so the Committee was unable to take any action on the ordinances.

Ms. Grogan said due to the timeline, the Commission was required to act on these ordinances at its June 14, 2019 meeting. She said the Committee could discuss them but, absent a quorum, there could be no recommendation from this Committee so she would modify the resolution and it would go directly to the Commission for action.

Commissioner Lohbauer said he is not being paid by Rowan College at Burlington County (RCBC) and had no involvement with this redevelopment plan.

Chairman Prickett said he too had not been involved with the redevelopment plans.

Ms. Grogan said Pemberton Township Ordinance 12-2019 adopts the Rowan College at Burlington County (RCBC) Redevelopment Plan. She directed the Committee to the SmartBoard and reviewed the maps accompanying the Executive Director's report. She said the

College site is some 225 acres, 143 acres of which is inthe Regional Growth Area (RGA) and the remainder isin the Rural Development Area (RDA) along the south side of Pemberton-Browns Mills Road where it intersects the Route 530 Bypass. She said the Plan identifies three areas: Area 1: the site of existing athletic fields where multi-family dwellings and neighborhood commercial uses will be permitted; Area 2: the developed portion of the campus; and Area 3: the vacant wetlands portion to the south of the campus where low intensity recreation will be permitted under the Plan.

Ms. Grogan said the Plan calls for Area 2 to be intensely developed with a wide range of uses, including health care facilities, offices, recreation and housing at ten units per acre with a 10% set aside for affordable housing units and the use of Pinelands Development Credits (PDCs) for 25% of the market rate units. She said the Township wants to provide a variety of housing types, and, under the municipal flexibility provision, permit residential densities up to ten units per acre in Areas 1 and 2, rather than the two dwellings per upland acre as prescribed in the CMP. She said that wetlands and wetland buffers will be a limiting factor to any development beyond the existing impervious surface. She said the Township wants to encourage mixed use development and hopes that more than one redeveloper will be interested in the project.

Ms. Grogan said Pemberton Township Ordinance 13-2019 adopts the Former Burlington County Minimum Security Corrections and Work Release Center (CWRC) Redevelopment Plan for 10-acres on the north side of Pemberton-Browns Mills Road, including the access road. Currently all lands in the CWRC Area are in the Township's Government Institution (GI) District, within the RGA, and limited to government and municipal facilities. The CWRC Redevelopment Plan is intended to encourage residential development and provide opportunities for future affordable housing needs. Under the Plan, garden apartments, townhouses and semi-detached dwellings will be added as permitted uses with a maximum density of eight units per acre, with a ten% set-aside for affordable units and a 25% PDC obligation on all market rate units. Ms. Grogan said there are wetlands to the front of the property that will limit development. Also, the parcel is set so far back from the road that the Township does not believe it is a good site for commercial development.

In response to Commissioner Lloyd's question regarding the "flagpole" shape of the CWRC area, Ms. Grogan said the intent of including the existing road in the zone is to alert a redeveloper that this road must be used to access the site.

In response to a question from Chairman Prickett if the access road were wide enough to accommodate traffic generated by some 80 units, Ms. Grogan said the access road to the CWRC parcel may need to be improved to meet Residential Site Improvement Standards in order to accommodate the residential development at the site.

Commissioner Lloyd asked whether the RCBC Plan will allow a redeveloper to tear down and replace the existing campus buildings if necessary. Ms. Grogan said that would be permitted and it has not yet been determined if the buildings can be repurposed.

In response to Commissioner Lohbauer's question regarding the potential number of residential units that could be developed on the two sites, Ms. Grogan said the staff estimates approximately 400 in the RCBC Area and 80 in the CWRC Area. She said the Plans limit the buildings to no more than three or four stories so there will be no high rise structures.

Commissioner Lloyd asked what the process would be if a redeveloper proposed to exceed the maximum height limitations in the redevelopment plan. Ms. Grogan said that might require an amendment to the redevelopment plan, which would need to be submitted to the Commission for certification.

In response to a question from Chairman Prickett, Ms. Grogan said, although the County owns the subject properties, it was not involved with the development of these Plans nor did it provide comment.

Commissioner Prickett asked if the staff would be speaking with the County about its interest in preserving Area 3 of the College campus. Ms. Grogan suggested that discussion may take place with a future redeveloper who may want to maintain that area as an amenity.

At the conclusion of the Pemberton redevelopment plan discussion, Commissioner Howell returned to the meeting.

6. Presentation on a research proposal

Mr. Laidig said that the Environmental Protection Agency (EPA) has provided funding for a number of the Pinelands Commission's wetland research projects over the years. The EPA has two-year funding cycles and the Science Office has prepared a proposal for the current round, due on June 14, 2019, to study the wetland-dependent eastern kingsnake. The proposal is titled "Activity range, habitat use, shedding, denning, and nesting of the wetland-dependent eastern kingsnake." (*Mr. Laidig's presentation is Attachment B to these minutes and posted on the Commission's web site at: https://www.nj.gov/pinelands/home/presentations/Activity%20range%20habitat%20use%20denning%20and%20nesting%20of%20the%20wetland-dependent%20eastern%20kingsnake.pdf)*

Mr. Laidig said the eastern kingsnake, a species of special concern, is found from northern Florida up to the southern part of New Jersey, where it is primarily associated with the Pinelands. He said it dens and overwinters in wetlands but little is known about the type of wetlands used, the amount of uplands habitat within an activity range, and the timing of shedding, denning, and nesting. He said the kingsnake is the "king" of snakes as it eats other snakes, including corn

snakes and timber rattlesnakes, so there is an interest in learning how it interacts with other rare Pinelands snake species. He further described the proposal, noting that project partners will be Robert Zappalorti and Howard Reinert (the individual who developed the surgical technique to implant telemetry devices in snakes.) This will be a four year study requiring three years of field work and one year to analyze data and prepare a report. Mr. Laidig described the project specifics and how the results could be applied. He noted that his office had received letters of support from other entities and requested endorsement from the P&I Committee.

Ms. Wittenberg said this research, in addition to that on corn snakes, will help inform the regulatory programs office with determining the need for surveys and protection plans for snakes. She added EPA grants are traditionally matched with PCF funds.

In response to Chairman Prickett's concerns if there were adequate staff to take on another study, Ms. Wittenberg said that Science Office projects included the National Park Service Long Term Environmental Monitoring Project and the utility line right-of-way study among others. Mr. Laidig said his office had just completed two EPA grants. He noted that the workload for the kingsnake study would be divided between Commission scientists and the collaborators and that Dr. Reinert would conduct all the snake surgeries.

In response to Chairman Prickett's question if the Committee could see the grant application, Ms. Wittenberg said she had it available. Also, she said that the work has been fairly consistent and if other funded projects come along, additional staff could be hired.

Commissioner Earlen moved the Committee's support for the application for the EPA wetlands grant. Commissioner Howell seconded the motion and all voted in favor.

7. Discussion of CMP amendments for coordinated permitting and public development applications

Ms. Wittenberg said today's discussion of CMP amendments will address the process for public utility projects in multiple municipalities, such as those submitted by South Jersey Gas and New Jersey Natural Gas. She said the Commission has been awaiting a court decision but absent one, thought it best to move forward with CMP amendments.

Ms. Grogan provided a PowerPoint presentation (*Attachment C to these minutes and also located on the Commission's web site at: https://www.nj.gov/pinelands/home/presentations/May%202019%20PI%20presentation.pdf)*

Ms. Grogan said the amendments discussed today will update the CMP to reflect the current public notice and comment procedures for public development applications and codify the application process for private infrastructure projects that qualify for Municipal Land Use Law (MLUL) pre-emption and do not receive municipal approvals. She noted that the blue text on slide #3 represents the new procedures to be added for the application process to identify the

dates for oral public comment (at a Pinelands Commission meeting) and submission of written comments (through close of business on the day of that meeting).

Ms. Grogan described the public and private development approval process and the MLUL pre-emption through which public utilities (typically, private companies) need not obtain municipal approvals for development through multiple municipalities, provided the Board of Public Utilities determines such projects are reasonably necessary for public service, convenience or welfare. Ms. Grogan said the proposed amendments would apply the public development process to such public utility projects.

In response to questions from Commissioner Lohbauer, Ms. Grogan said the amendments would specify that notice of the public comment period be provided a minimum number of days in advance. Ms. Roth said a significant, substantive change to an application triggers new notice requirements and an additional public comment period.

Commissioner Lloyd said for those cases in which the Commission were to disapprove a project, instead of referring an applicant to the Office of Administrative Law, he would prefer the Commission conduct the hearing itself, just as is done by the Board of Public Utilities.

In response to Chairman Prickett's question about quorum issues, Ms. Grogan said quorum issues could arise on any number of matters. Ms. Roth added that the Commission has never needed to invoke the "rule of necessity" when, due to recusals there was no quorum. However she said, in the past, the Commission has asked applicants to request an extension so that the matter can be voted on at a subsequent meeting, when a quorum is present.

Commissioner Earlen asked about a case such as the recent NJDEP proposal to cut trees in Bass River Township and the extensive public testimony received. He asked if in such a case, the Commission itself could extend the public comment period.

Ms. Roth said currently there are no provisions for the Commission to extend the comment period. Ms. Wittenberg added that the Commission typically asks that the applicant make such a request.

Ms. Roth said the Federal act has no specific deadline by which the Commission must take action.

Ms. Grogan added that the Commission did not want the applicant to suffer due to a delay.

Ms. Roth said language could be added to extend the review period such as if there were no quorum at a particular meeting where action was scheduled to take place or if there were a need to gather additional information.

Commissioner Lloyd said he would like for the Commission to have the opportunity to hear any new information. Ms. Roth responded that staff could look at the possibility of re-opening an application if new information is provided.

In response to a question from Commissioner Howell, Ms. Roth said any action by the Commission requires a vote of eight.

Mr. Horner said, in practice, the applicant understands that substantive issues must be addressed. Call up hearings have to be rescheduled every 30 to 60 days, but applicants tend to resolve the issues rather than going to the Office of Administrative Law for a hearing.

Ms. Grogan said often the issue is an applicant has not obtained or redeemed the required number of PDCs.

Ms. Wittenberg said the Commission would require notification from any applicant if they were going to request an MLUL pre-exemption from BPU and perhaps fees should be imposed on such applications.

Ms. Grogan reviewed a tentative rulemaking schedule, noting that the earliest effective date for new rules would be January 21, 2020.

8. Review of CMP Forest and Rural Development Area clustering regulations

Ms. Grogan said the CMP Forest and Rural Development Area clustering regulations became effective on April 9, 2009. It took nine and a half years for all the municipalities required to do so to incorporate clustering into their ordinances. Now, ten years after adoption of the rules, it was time to review their status, effectiveness and problems.

Ms. Jeney distributed a June, 2008 document summarizing the principles of the clustering program (*Attachment D to these minutes*) and provided a PowerPoint presentation (*Attachment E to these minutes and also posted on the Commission's web site at: https://www.nj.gov/pinelands/home/presentations/2019%2005%2031%20PI%20Committee%20Introduction.pdf).*

Commissioner Earlen left the meeting at 11:45 a.m.

Ms. Jeney said cluster subdivisions are also known as conservation subdivisions. She described the development of the cluster rules and the interest in discouraging forest fragmentation and preventing scattered, piecemeal development while protecting sensitive areas. She said that, by clustering development on one-acre lots and permanently deed restricting the remainder of the parcel, more open space is provided for the residents and the rural character of an area can be maintained, while also reducing site improvement costs because of the concentration of the development.

Ms. Jeney said that to date, 18 projects have been completed (i.e., cluster deed restrictions recorded) for a total of 75 units under this provision. The completed cluster projects have been relatively small, have used no bonus units, and have resulted in the deed restriction of 427 acres of open space. Her presentation described the projects in terms of location, parcel size and number of units and provided examples of real projects.

Ms. Grogan said that in 2009, the new clustering rules caused much concern to the municipalities. They did not like the concept of bonus units and did not want any increase in permitted density. They also did not want to be responsible for administering the resulting open space.

In response to Commissioner Lloyd's question as to the extent the clustering rules have affected agriculture, Ms. Grogan said minimally, because there are few farms in the FA and they tend to be small.

Ms. Jeney said the clustering requirements supersede the 200-foot scenic setback requirements so that development is located closer to existing roads. Some communities are concerned that would disrupt the prevailing development patterns.

Ms. Grogan said ownership of open space does not equal management of that open space. She also said there was a designated group of staff that discusses cluster applications and how to handle challenging ones.

Ms. Jeney provided examples of a variety of cluster projects in Winslow, Franklin, Hamilton and Buena Vista townships that were illustrative of what the internal committee reviewed.

In response to Commissioner Lohbauer's question if alternate design septic systems shouldn't be required on one-acre lots, Ms. Jeney said that because the overall parcel contains sufficient acreage to meet the Commission's water quality standard for the proposed development, alternate design septic systems were not required.

Ms. Grogan added that one looks at the parcel overall when examining water quality but even on a one-acre parcel the nitrate levels will still meet the state requirement of 10 ppm. She said projects using bonus densities or projects proposing to continue agricultural uses may be required to use alternate design systems.

Ms. Grogan said the Commission's goal is to encourage the assemblage of large parcels. She said development patterns, management of open space and bulk standards are issues the municipalities may be able to address without a CMP amendment.

Ms. Grogan said, when the recession ended, the Commission started seeing lots of older projects being revived. There are some things about the clustering rules that need to be dealt with and staff would be returning within the next several months to address them. After ten years, staff

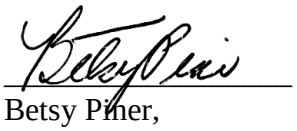
has learned enough to make some adjustments to the clustering rules and she said she anticipated staff would return within the next few months to discuss them further with the Committee.

9. Public Comment

No comment was offered by members of the public.

There being no other items of interest, the meeting ended at 12:28 p.m.

Certified as true and correct:



Date: June 18, 2019

Betsy Piner,
Principal Planning Assistant

PCF Updates

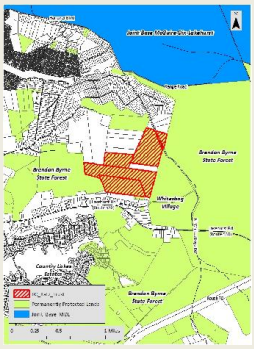
Status

Of the **4** projects granted PCF allocations in 2017:

- **3** have closed (579 acres)
- **1** is requesting advanced payment of grant in order to close!


Photo by Paul Leakan, NJPC

Rancocas Conservancy: Katz


Map prepared by Robyn A. Jeney, NJPC

- Location:
  - Pemberton Township
  - Agricultural Production Area
  - Adjacent to >37,000 acres of permanently protected lands
- Features:
  - 200 acres (approx.)
  - PDC deed-restricted
  - Forested wetlands, tributaries, pond
  - T&E species habitat
  - Paleodune
  - Off-road vehicle damage

Rancocas Conservancy: Katz

Project Details	
Size (est.):	200.49 acres
Total Cost:	$122,000 ($609/acre)
Appraised Value:	$200,000
PCF Allocation:	$66,667 (33.3% of appraised value)
Ultimate Landowner:	Rancocas Conservancy

Project Status	
Contract?	**YES**
Appraisal(s)?	**YES**
CFMV?	**YES**
Grant Agreement?	**YES**
Estimated Closing Date:	**6/21/2019**
Advanced Funds Requested?	**YES**



Photos by Paul Leakan, NJPC

Rancocas Conservancy: Katz

Project Details	
Size (est.):	200.49 acres
Total Cost:	$122,000 ($609/acre)
Appraised Value:	$200,000
PCF Allocation:	$66,667 (33.3% of appraised value)
Ultimate Landowner:	Rancocas Conservancy

Project Status	
Contract?	**YES**
Appraisal(s)?	**YES**
CFMV?	**YES**
Grant Agreement?	**YES**
Estimated Closing Date:	**6/21/2019**
Advanced Funds Requested?	**YES**

Approve payment of advanced funds?

→ $66,667


Photos by Paul Leakan, NJPC

2017 PCF Available Funds



Initial funds available: **$500,000**

Allocation Area	Allocated	Paid	Acres
Forked River Mtns	$ 54,363	$ 54,363	43.6
Ocean Co. Forest	$184,815	$184,815	96.6
Sooy Place Road	$169,000	$169,000	438.8
Contingency	$ 66,667	--	200
Total	**$474,845**	**$408,178**	**779**


Photos by Paul Leakan, NJPC


Thank you!
Photo by Paul Leakan, NJPC

NEW GRANT OPPORTUNITY

EPA Wetland Program Development Grants

Policy and Implementation Committee
May 31, 2019

New Proposed Study

"Activity range, habitat use, denning, and nesting of the wetland-dependent eastern kingsnake"

Why eastern kingsnakes?

Species of special concern
(multiple threats, potentially declining, distribution and status unknown)

Pinelands geographic distribution

Wetland-dependent species

Interacts with state-endangered corn snakes

Project specifics

Partner with Robert Zappalorti and Howard Reinert

Use radio telemetry to study eastern kingsnakes in the New Jersey Pinelands to determine:

Activity range size

Wetland habitat types needed for hibernation

Upland habitat types needed for foraging, shedding, and nesting (potential)

Timing of shedding, denning, and nesting (potential)

Timeline and Cost

Three years of field work (2020 - 2022)
One year to analyze data and write report (2023)

Maximum total cost ~$434,000
~$325,000 from EPA (maximum provided)
~$108,000 (25% Commission match)
PCF Fund - Science and Research

Applications

Evaluate adequacy of upland buffers to protect wetlands

Value upland and wetland habitats in NJDEP state-wide wildlife habitat map

Inform NJDEP Forest Service natural resource stewardship plans

Guide the timing of forestry activities, vegetation management along utility ROWs, and prescribed burning

Support

Letters of support from:

NJDEP Endangered and Nongame Species Program
Pinelands Preservation Alliance
New Jersey Audubon
New Jersey Conservation Foundation

Policy and Implementation Committee

Proposed CMP Amendments

Policy & Implementation Committee

May 31, 2019

Proposed Amendments

- Public development application process:
  - Update CMP to reflect current public notice and comment procedures
- Coordinated permitting:
  - Codify application process for private infrastructure projects that qualify for MLUL pre-emption (N.J.S.A. 40:55D-19) and do not receive municipal approvals

Application Process Public Development

- Application is submitted to the Commission
- Applicant provides public notice
- Staff determines application is complete
- Staff updates the status report on the Commission's website to provide the dates for oral public comment and submission of written comments
- Oral comments accepted at PC meeting
- Written comments accepted through close of business on day of PC meeting

Application Process Public Development

- Staff prepares a report on public development
- The Executive Director determines whether the application should be approved, approved with conditions or disapproved
- The Commission acts at its next meeting and must either approve the Executive Director's determination or refer the application to OAL

Proposed Amendments Public Development Process

- Codify public comment process and update public notice procedures
- Require Commission action within 45 days of the close of public comment period
- After consideration of the Executive Director's recommendation, provide the Commission with the ability to approve, approve with conditions or disapprove public development applications

Application Process Private Development

- Application submitted to Commission
- Staff determines application is complete and issues Certificate of Filing
- Applicant obtains municipal approvals
- Municipal approvals are provided to Commission staff for review to ensure consistency with the CMP

Application Process Private Development

- Commission staff reviews municipal approvals and either:
  - Issues a letter of no further review, allowing the approval to take effect

    OR
  - Determines an approval raises a substantial issue with respect to the CMP and schedules a hearing
- Hearings are typically held before the Executive Director, although applicants have the option of requesting OAL hearings

Application Process Private Development

- Applicants usually resolve all identified issue(s) prior to the Commission staff hearing, allowing for release of the approval
- If a hearing is held, staff subsequently prepares a report and recommends the Commission approve, conditionally approve or disapprove the development
- The municipality or county must revise or revoke its approval in accordance with the Commission's action

MLUL Pre-Emption

- N.J.S.A. 40:55D-19:
  - MLUL does not apply to development proposed by a public utility for installation in more than one municipality, provided BPU determines the development is reasonably necessary for public service, convenience or welfare
- Public utility must petition BPU
- BPU makes determination after notice and hearing
- Public utility does not need to obtain municipal approvals

Proposed Amendments Coordinated Permitting Process

- Apply the public development process to all public utility projects that BPU determines are eligible for the MLUL pre-emption
  - Public notice by applicant
  - Public comment (oral and written)
  - Executive Director's report and recommendation
  - Formal Commission action to approve, approve with conditions or disapprove the development

Next Steps

- Finalize amendments and rule proposal; share with AG's office
- Submit amendments to Governor's office for approval
- Review rule proposal with P&I Committee
- Present rule proposal to Commission for authorization

Rulemaking Schedule

- Rule Proposal: 7/12/19 Commission meeting
- Publication in NJ Register: 8/19/19
- Public hearing and 60 day comment period
- Rule Adoption: 12/13/19 Commission meeting
- Effective date: 1/21/20

Pinelands Forest and Rural Development Clustering Program Principles

June 2008

Purpose

1. By helping to preserve larger, contiguous areas of forest which provide important habitat for characteristic and rare Pinelands fauna and flora, clustering of residential development in areas of the Pinelands that are valued for their ecological attributes can help to advance several goals of the Pinelands Protection Act, specifically to preserve and maintain the essential character of the Pinelands environment (N.J.S.A. 13:18A-9b(1)), encourage appropriate patterns of development (N.J.S.A. 13:18A-9b(5)) and discourage piecemeal and scattered development (N.J.S.A. 13:18A-9b(4)).

Target Areas

2. Pinelands Forest and Rural Development management areas should be the target for this clustering program. (N.J.A.C. 7:50-5.19(c) and (d))

Municipal Participation

3. If clustering is to be successful, it must be utilized on a widespread basis. Thus, municipalities should be obligated to incorporate the clustering program into their zoning ordinances. (N.J.A.C. 7:50-3.39(a)2ix)

4. As provided in Section 27 of the Pinelands Protection Act (N.J.S.A. 13:18A-27), the Commission expects that the normal provisions of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq.) will govern municipal clustering programs unless they conflict with specific elements of the Pinelands clustering program. In those cases, the provisions of the Pinelands clustering program will control.

5. Through the application of sound land use planning principles, municipalities may identify local conditions or circumstances that warrant clustering provisions different than those provided in the Pinelands program as long as the overall goals and objectives of the clustering program are met. Therefore, municipalities should be afforded the ability to tailor the Pinelands clustering program to account for unusual local conditions or circumstances, when these local adaptations have been supported through sound land use planning practices. (N.J.A.C. 7:50-3.39(a)2ix)

Landowner/Developer Participation

6. To further ensure its widespread use, all residential development in the Forest and Rural Development Areas should be clustered, unless doing so would be disadvantageous from an ecological perspective. (N.J.A.C. 7:50-5.19(c)).

7. Clustering shall not be permitted if it cannot adhere to the environmental standards in Subchapter 6 of the CMP, would conflict with the CMP's density transfer program (N.J.A.C. 7:50-5.30) or would disrupt the contiguity of the forest ecosystem more than non-clustered development. (N.J.A.C. 7:50-5.19(c)1 through 3)

Forest Contiguity

8. Since property ownership is very fragmented in Forest and Rural Development management areas, an incentive to assemble large tracts of land must be afforded. This incentive should be in the form of a density bonus that, although not specifically tied to assemblage, increases with the size of the tract. (N.J.A.C. 7:50-5.19(d)1)

9. The density bonus should be structured to provide further incentives for land assemblage in the more ecologically valuable areas, which generally correspond to lower density zoning districts. (N.J.A.C. 7:50-5.19(d)1)

10. Density bonuses should range from 0 to 40 percent, with larger parcels in the lower density zones receiving the higher bonuses. An assembled 75-acre property in a 15-acre zoning district may, for example, receive a 20 percent density bonus, which equates to one additional lot. (N.J.A.C. 7:50-5.19(d)1)

Locating and Designing the Cluster

11. Performance standards should guide land planners in locating the "cluster" on the property. These standards should provide that residential clusters: be located proximate to existing roads; be located proximate to existing development; and be buffered from land uses, such agricultural uses, where land use conflicts could materialize. (N.J.A.C. 7:50-5.19(d)2)

12. To protect the greatest amount of land while reducing the likelihood of water quality impacts within the residential cluster, residential lots shall be one acre in size. On-site community wastewater systems will also be permitted to serve the cluster. (N.J.A.C. 7:50-5.19(d)3i and ii)

13. The residential cluster shall include all land and facilities necessary to directly support the development. These may include stormwater facilities in accordance with CMP requirements (N.J.A.C. 7:50-6.84(a)6); other support infrastructure, such as streets and accessory recreation facilities; and community wastewater facilities, if they are to be provided. Municipal ordinances should specify the types of recreation facilities permitted within the residential cluster, provided that recreation facilities may occupy no more than 1/2 acre of land or a ratio of one acre for every 25 residential lots, whichever is greater. (N.J.A.C. 7:50-5.19(d)3iii and iv)

Protected Land

14. Protected land (land outside the cluster) may be owned by a homeowners association, a non-profit organization, the municipality itself or included as part of one of the residential lots within the cluster. The protected land will be subject to a protective easement. (N.J.A.C. 7:50-5.19(d)4)

15. Regardless of ownership, the protected land should be subject to an easement in favor of the residents of the cluster, another public entity, such as the municipality, county and/or State, or a non-profit organization. In the case of agricultural land, the easement can be in favor of a County Agriculture Development Board or the State Agriculture Development Committee. (N.J.A.C. 7:50-5.19(d)4i and 5iv)

16. In those rare cases where active agricultural lands exist within that portion of the property to be protected, an agricultural easement may provide for continued agricultural use and expansion of that use up to 50 percent, provided that:

- Wastewater technologies (either individual or community systems) that reduce pollutant loading will serve the residential cluster. These systems shall conform to CMP requirements; (N.J.A.C. 7:50-5.19(d)3ii)
- The easement limits impervious coverage to three percent or existing conditions, whichever is greater, unless a Resource Management System Plan has been prepared in accordance with Natural Resources Conservation Service guidelines and approved by the Commission and the County Agriculture Development Board or the State Agriculture Development Committee, if either holds the easement; and (N.J.A.C. 7:50-5.19(d)5v)
- A provision is recorded in each deed to the residential lots within the cluster that reflects right to farm provisions. (N.J.A.C. 7:50-5.19(d)5vi)

17. All other protected lands shall be subject to a conservation easement that limits the land's use to passive recreation, ecological management and forest management.

- **Passive recreation** shall permit, subject to municipal and Pinelands permitting requirements, the construction of trails and similar facilities provided that clearing does not exceed five percent and impervious coverage does not exceed one percent; (N.J.A.C. 7:50-5.19(d)4ii)
- **Ecological management** activities shall be subject to municipal and Pinelands permitting requirements; and (N.J.A.C. 7:50-5.19(d)4ii)
- **Forest management** shall be conducted in accordance with an approved forest stewardship plan. (N.J.A.C. 7:50-5.19(d)4ii)

18. A sample conservation easement and a sample agricultural easement should be prepared to supplement the use restrictions presented in the CMP. Each sample easement should describe the permitted open space or agricultural use provisions with specificity and describe relevant stewardship requirements and relevant monitoring and enforcement.

Cluster Development in Pinelands Rural Development and Forest Areas

Presented to the Pinelands Commission
CMP Policy & Implementation Committee

May 31, 2019

10-year Cluster Rule Review

- Review implementation to date, with:
  - Regulatory staff
  - Municipal officials
  - Consultants
  - Applicants/developers
- Evaluate application data from 2009 – 2019
- Reconsider concerns raised during 2009 rule proposal
- Identify primary issues
- Propose solutions to issues

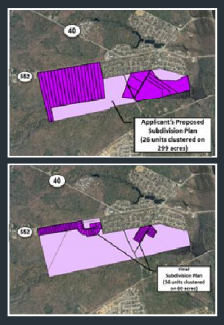
Development of Cluster Rule

- Concern over forest fragmentation
- Desire to protect sensitive areas
- Prevention of scattered, piecemeal development

Costa Subdivision, Winslow Township
Forest Area: 60 acres
Average lot size: 20 acres
No deed-restriction

What is Clustering?

- Clustering:
  - Reduces minimum lot sizes in exchange for preservation of open space
  - Provides open space for residents
  - Maintains rural character
  - Reduces site improvement costs



Misty Pines, Hamilton Township
Forest Area: 436.5 acres

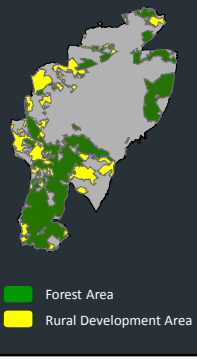
Pre-2009 Clustering Rule

- **Encouraged** in RDA
- **Permitted** in FA
- Underused in RDA & FA
  - Fewer than 20 applications over 23 years
- Minimum lot size in:
  - FA: 3.2 acres
  - RDA: 1.0 acre

Tranquility Ridge, Southampton Township
Forest Area: 600 acres
Average lot size: 4.4 acres
386 acres (64% of parcel) deed-restricted

2009 Clustering Rule

Made clustering **mandatory** in Forest and Rural Development areas when 2 or more dwellings are proposed



Key Requirements

- **Development area**:
  - One acre lots
  - Contains all development
  - May use standard septic systems
  - Must be near existing development or roads
- **Open space remainder:**
  - Must be permanently deed-restricted
  - Limited to low-intensity recreation, ecological management, forestry and existing agricultural use
- Subdivisions of larger parcels may qualify for **bonus units**

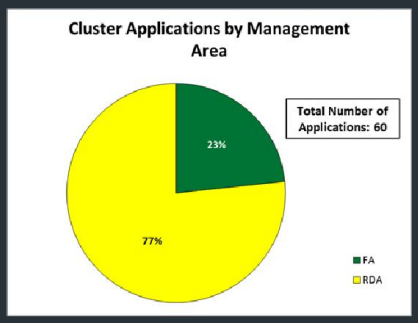
Municipal Implementation

- Commission offered grants to offset municipalities' implementation costs
- All municipalities required to incorporate clustering into ordinances have done so
  - Most made no changes to CMP language
  - Some used municipal flexibility provision:
    - Bonus density restrictions, minimum lot size, designated receiving areas, open space ownership, scenic setback
- Challenging process - took 9 ½ years!

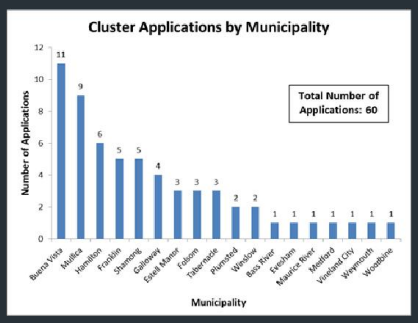
Completed Cluster Applications

- **18 applications** for a total of **75 units** have been completed (i.e., have recorded a cluster deed restriction)
- **0** applications used **bonus units**
- **0** applications included continuation of existing farm
- **427** acres deed-restricted as open space

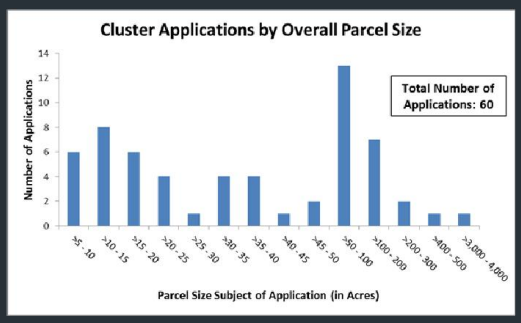
Where is Clustering Happening?



Where is Clustering Happening?



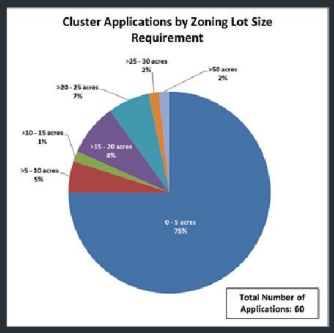
Overall Parcel Size



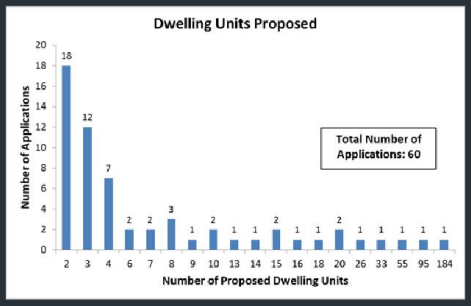
Use of Bonus Units

- **50-acre minimum parcel size** to be eligible
- To **encourage assemblage** of larger parcels
- Of **60 applications**:
  - **19** (32%) were **eligible** based on parcel size
    - 2 proposed the use of bonus units
      - **14 bonus units** for a total of 95 units on 261 acres
      - **13 bonus units** for a total of 55 units on 425 acres
    - **3** did not propose bonus units
    - **14** were incomplete applications (as yet undetermined)
  - **41** (68%) were **ineligible** based on parcel size

Where are Applications Being Proposed?



Number of Proposed Dwelling Units

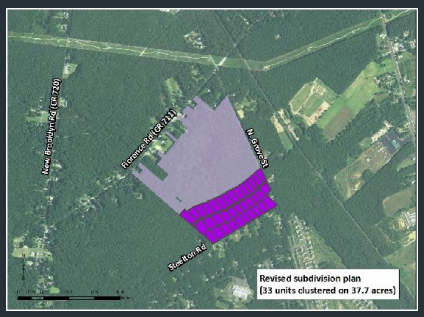


Deed-restricted Open Space

Management Area	# of Units	Sum of Project Acreage	Deed-restricted Open Space (acres)	Percent Open Space
RDA	58	446	232	52%
FA	17	275	195	71%
TOTAL	**75**	**721**	**427**	**59%**

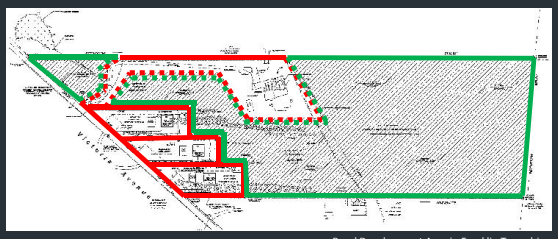
Numbers are based on 18 applications that are complete and have recorded their cluster open space deed restrictions.

Clustering Projects



Rural Development Area in Winslow Township

Clustering Projects



Rural Development Area in Franklin Township

Developed area

Conservation area

Clustering Projects

Rural Development Area in Franklin Township

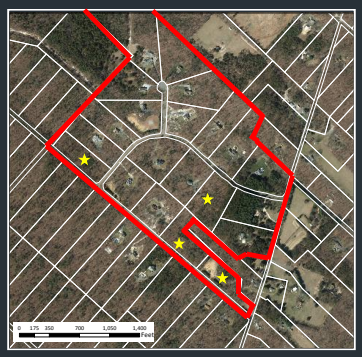
Developed area

Conservation area

Issues

- Administrative:
  - Pre-2009, not-yet-completed subdivisions no longer protected from zoning changes under MLUL
  - Small projects
  - Continuation of existing agricultural use
- Municipal:
  - Scenic setback/surrounding development pattern inconsistency
  - Open space ownership and uses

Example of Challenging Project



Rural Development Area in Hamilton Township

Remaining vacant lots (4 total)

21-lot subdivision

Decision: not required to cluster remaining lots

Example of Challenging Project

Rural Development Area in Buena Vista Township

Stormwater management basins installed

Internal subdivision road constructed

Dwelling partially constructed prior to receiving Commission sign-off

Decision: required to cluster dwellings on existing lots

Next Steps

- Amend CMP to address specific issues
- Return with proposed amendments to P&I Committee for review
- Support municipalities in using municipal flexibility provision to identify and incorporate into ordinance:
  - Solutions specific to their community
  - Areas inappropriate for clustering
  - Overlay areas

DRAFT

PINELANDS INFRASTRUCTURE TRUST MASTER PLAN AMENDMENT
PROJECT SELECTION AND FUNDING LEVELS
PC-19-__

Background

The Pinelands Infrastructure Trust Fund (PITF) was created through the Pinelands Bond Act of 1985. Originally, sale of bonds authorized by P.L. 1985, Chapter 302 raised $30,000,000 for the purpose of providing grants and loans to local units of government for infrastructure projects necessary to accommodate development in Regional Growth Areas of the Pinelands. The Pinelands Commission then prepared and adopted the Pinelands Infrastructure Master Plan and an Infrastructure Financing Plan.

Loans repaid from previous funding rounds, along with the sale of additional bonds, has replenished the PITF. Currently, approximately $15,890,000 is available for projects approved through the PITF process. Amendment of the Master Plan is necessary to identify and recommend infrastructure projects for funding.

A Pinelands Infrastructure Trust Fund (PITF) Master Plan amendment was adopted by the Pinelands Commission in February 2019. The amendment updated the criteria for ranking proposed infrastructure projects and identified the funding structure as a balance of 50% loans, 40% grant and a minimum of 10% local matching funds. Subsequently, the Commission directed that a request for project proposals should be issued.

A request for proposals was issued on March 12, 2019 and distributed to all Pinelands counties, municipalities, and utility authorities with Pinelands Regional Growth service areas. Ten project proposals were received in response to the request for proposals. Projects ranged from water distribution lines and wastewater collection lines, to transportation improvements and underground storage tank removal. The total cost of all projects submitted was $34,060,215, far exceeding the amount of money currently available through the PITF. All projects are described below, with funding recommendations in a subsequent section.

Loans and grants are administered by the Infrastructure Bank pursuant to N.J.A.C. 7:22 – 6 and 7 relative to the PITF. Subchapter 6 sets forth the grant and loan procedures. Subchapter 7 defines allowable costs for the projects. The procedures and allowable costs are not the subject of this PITF Master Plan Amendment.

Objectives

The resources available for use in the PITF are approximately $15,890,000. That amount includes existing funds and $6,750,000 in bond issues. The funding must be appropriated through legislation. Appropriations refer to the Pinelands Infrastructure Master Plan priority list. This Pinelands Infrastructure Master Plan amendment supports the appropriations of PITF through achievement of the following objectives:

- To establish an updated priority list of infrastructure projects for funding through the Pinelands Infrastructure Bond Act
- To select and rank proposed infrastructure projects against criteria established through the Pinelands Infrastructure Master Plan Amendment completed February 2019
- To adopt the priority list into the Pinelands Infrastructure Master Plan
- To forward the priority list to NJDEP for legislative appropriations and administration of grants and loans

Project Descriptions and Rankings

All project proposals were evaluated against the ranking criteria of the Pinelands Infrastructure Master Plan amendment adopted in February 2019. The ten projects are briefly described, below, and are listed in order of their ranking.

1. Pemberton Township – Burlington County Institutions Water System Improvements

This project would install improvements to an existing water supply system. The proposal is to rehabilitate distribution and storage facilities that form the sole source of public water supply for a portion of the Township's Regional Growth Area recently designated for redevelopment. The project was evaluated based on two redevelopment plans certified by the Commission on June 14, 2019. Projected demand for 85 full PDCs (340 rights) is based upon a maximum of 1,430 dwelling units in the Rowan College at Burlington County Redevelopment Area and an additional 80 dwelling units in the Former Burlington County Minimum Security and Work Release Center Redevelopment Area. The large number of dwelling units, large mandatory PDC use, residential density, and a lower cost per dwelling unit all contributed to the highest rank for this project.

2. Manchester Township and Jackson Municipal Utilities Authority – Water and Sewer Main Extensions

The project would serve Regional Growth Areas in Manchester Township and Jackson Township. Sewer main would be extended approximately 2 miles along Ridgeway Road and South Hope Chapel Road from a connection in Manchester Township (service by Ocean County Utility Authority). Additionally, water mains would be extended from Jackson Township connection into Manchester Township resulting in interconnection of the municipal water systems. Water system interconnection is expected to reduce usage of an existing Cohansey aquifer public supply well. A portion of the area to be served by the sewer and water extensions is subject of a Pinelands development application with a recent Certificate of Filing (App. No. 1983-5386.002.) Based upon municipal zoning, the project would support potential use of 85.5 PDCs (342 rights) and allow for a total of 1,369 dwelling units (789 in Manchester Township and 580 in Jackson Township.) The large number of dwelling units, mandatory PDC use, residential density, higher local matching funds, and environmental benefit of reduced demand on the Kirkwood-Cohansey aquifer all contributed to the high ranking of this project.

3. Monroe Township – Williamstown Square Transportation Improvements

This project supports a redevelopment area in the Regional Growth Area with road intersection signalization, road widening, and controlled access for a mixed-use development. The project is planned to serve 350 dwelling units and generate mandatory use of 21 PDCs (84 rights). Design is intended to accommodate multiple modes of transportation including auto, bicycle and foot traffic. The redevelopment plan calls for achieving a "Sustainable Neighborhood" through encouragement of LEED silver certification. Also, the development is intended to maximize green space through green roofs, green walls, architectural design, rain gardens and woodlands. The number of dwelling units, mandatory PDC use, moderate cost per dwelling unit (in PITF funding) and green design elements contributed to the ranking of this project. The ranking is based upon the Commission's anticipated certification of a revised version of the Williamstown Square Redevelopment Plan, adopted by the Township in May 2019. Eligibility for funding may not be met without Pinelands certification of the redevelopment plan.

4. Galloway Township – Pinehurst Sewer Extension

The project proposes to extend 26,000 linear feet of sanitary sewer main to connect with the Atlantic County Utilities Authority system in the Pinehurst section of Galloway Township. The project would allow the development of approximately 938 dwelling units and the use of 41.25 PDCs (165 rights) if the Planned Unit Residential (PURD) standards of the municipal ordinance are applied. The number of dwelling units, a lower cost per dwelling unit (in PITF funding), and residential density raised the ranking of this project. Optional, rather than mandatory, use of PDCs also affected the ranking. Ranking of this project presumed that future development would occur at the permitted PURD density. That density could not be achieved absent public sanitary sewers.

5. Winslow Township – Water and Sewer Main Extensions

This project would design and construct 4,275 linear feet of water main and 4,095 linear feet of sewer main to support a recently designated redevelopment area in the Regional Growth Area. The parcel to be served by the sewer and water extensions is subject of a Pinelands development application with a recent Certificate of Filing (App. No. 2008-0014.002.) Based upon municipal zoning, the parcel to be served has potential for 145 dwelling units and mandatory use of 9.25 PDCs (37 rights). Mandatory PDC use and larger local match funding contribute to the ranking of this project.

6. Monroe Township – Black Horse Pike Water and Sewer Main Extensions

The project would extend water and sewer to a mix of commercially zoned and residentially zoned sections of the Township adjacent to the Black Horse Pike. Approximately 13,000 LF of sewer force main, 8,960 LF of sewer main, and 15,315 LF of water main would be installed to serve commercial development and an estimated 421 dwelling units. Based upon the municipal zoning, there is potential for mandatory use of 21.25 PDCs (85 rights). Although the area to be

served is in a Regional Growth Area, the majority is zoned for commercial development. Ranking of this project reflects mandatory PDC use and residential density, where applicable, but also predominance of commercial development to be served.

7. Egg Harbor Township – Tremont South Sewer Extension

The proposal includes approximately 13,100 LF of sewer main extensions to serve a residentially zoned area where PDC use is optional. The project is estimated to generate 150 dwelling units and potential demand for 12.5 PDCs (50 rights). The lower level of service along with optional PDC use, low residential density, and minimum local match affected the ranking of this project.

8. Atlantic County Utilities Authority – Underground Storage Tank Replacement

This project would remove underground fuel tanks located at five existing pump stations and replace them with above ground storage tanks and containment structures. The five pumping stations serve existing wastewater collection systems in Hamilton Township and Egg Harbor Township. There is no specific development proposed or associated with this maintenance project, although such projects may be necessary to support future development in the sewer service areas of the Atlantic County Utilities Authority. The lack of specific information about potential residential units, PDC use, and other factors related to bonus criteria led to a lower rank for this project.

9. Atlantic County Utilities Authority – Pump Station Upgrades

The project proposes structural, mechanical and electrical upgrades to extend the operation of five pump existing wastewater pump stations. The five pumping stations serve existing wastewater collection systems in Hamilton Township and Egg Harbor Township. There is no specific development proposed or associated with this maintenance project, although such projects may be necessary to support future development in the sewer service areas of the Atlantic County Utilities Authority. The lack of specific information about potential residential units, PDC use, and other factors related to bonus criteria led to a lower rank for this project.

10. Evesham Municipal Utilities Authority

The project would construct an elevated water storage tank to serve existing customers along Hopewell and Kettle Run Roads in Evesham Township located in a Pinelands Rural Development management area, along with an unspecified Regional Growth Area. The application noted that no PDCs will be used for any development served by the proposed water tank. As the service area is in a Rural Development Area and no Regional Growth Area is proposed to be served and no PDC demand is generated by the project, it is ineligible for funding through the PITF.

Project Priority List and Recommended Funding

Given available funding and the rankings described above, five projects are recommended for PITF funding. The table below summarizes the recommended funding levels. Final funding levels will be determined by the New Jersey Infrastructure Bank through administration of NJAC 7:22 – 6 and 7.

Priority Number	Applicant	Project	Total Project Cost	PITF grant	PITF loan	PITF Sum
1	Pemberton	BCI Water system improvement	$2,929,000	$1,171,600	$1,464,500	$2,636,100
2	Manchester Twp/Jackson MUA	Water & Sewer	$7,192,035	$2,745,011	$2,745,011	$5,490,022
3	Monroe	Williamstown Square Transportation	$3,962,000	$1,426,320	$1,782,900	$3,209,220
4	Galloway	Pinehurst sewer extension	$3,493,440	$1,397,376	$1,746,720	$3,144,096
5	Winslow	Water & Sewer	$1,728,940	$705,281	$705,281	$1,410,562
Totals			$19,305,415	*$7,445,588*	$8,444,412	$15,890,000