

Adopted September 27, 2019

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

**Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
August 23, 2019 - 9:30 a.m.**

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Jerome H. Irick, Jordan Howell, Ed Lloyd, and Mark Lohbauer

MEMBERS ABSENT: Candace Ashmun and Sean Earlen

STAFF PRESENT: Nancy Wittenberg, Larry L. Liggett, Stacey P. Roth, Susan R. Grogan, Gina Berg, John Bunnell and Betsy Piner. Also in attendance was Brian T. Wilton 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 9:30 a.m.

2. Pledge Allegiance to the Flag

All present pledged allegiance to the Flag.

3. Adoption of minutes from the July 26, 2019 CMP Policy & Implementation Committee Meeting

Commissioner Lohbauer moved the adoption of the July 26, 2019 meeting minutes. Commissioner Irick seconded the motion. The minutes were adopted, with all Committee members voting in the affirmative.

4. Pinelands Infrastructure Trust Fund: July 2019 Master Plan amendment for project selection and funding levels

Ms. Berg reviewed the Pinelands Infrastructure Trust Fund (PITF) Master Plan amendment (*Attachment A to these minutes and posted on the Commission's website at:*

<https://www.nj.gov/pinelands/home/presentations/PITF%20Priority%20projects%20082319.pdf>)

Ms. Berg described both the ten funding applications received as well as the five priority projects recommended for approval. For the recommended projects, she also discussed the potential use of PDCs for each and noted that both Winslow and the Manchester Township/Jackson Municipal Utilities Authority projects offered contributions larger than the base amount required for local match, thus allowing funding for all five recommended projects. She said if the Committee advances this amendment today, the Commission is scheduled to take action at its September 13, 2019 meeting. From there, the amendment will be forwarded to the Infrastructure Bank in October and then to the legislature for a funding appropriation in January.

Ms. Berg said staff had met with representatives of the New Jersey Department of Environmental Protection (NJDEP) regarding its request for future eligibility of all wastewater funds to be used as a match for federal wastewater funds. She said currently that is about \$7 million and staff recommends allowing the match. Also, she said, staff is recommending that the water supply projects be included in this round, even though the NJDEP Subchapter 22 rules have not yet been amended to allow administration of the funding of those projects. She said the applicants for water projects could choose to apply to the Water Bank for funding but there could be a delay until the necessary amendments are in effect.

Ms. Berg said NJDEP thought it might be able to offer a waiver of the rules to allow the water projects to proceed. However, she said, any rules related to funding may not be eligible for a waiver.

In response to Commissioner Lloyd's question if allowing the \$7 million to be used by NJDEP as matching funds for wastewater projects would foreclose on other options the Commission might have in the future, Ms. Berg said all PITF funding in the past was dedicated to wastewater. She said most recently there was an interest in expanding to other types of infrastructure. However, she said, wastewater projects will continue to be higher cost items. She said NJDEP would use both the grant and loan funding as the match for the federal funds.

Mr. Liggett noted that there are other infrastructure needs in the Pinelands Area and staff has discussed approaching legislators to secure additional funding that could be awarded to projects in Pinelands Towns, not just Regional Growth Areas.

In response to Chairman Prickett's question as to how much of the loans have been paid back, Mr. Liggett said since 1985, probably most have been paid. He said funding is tracked by the Treasury Department. Commissioner Prickett asked staff to research how much from past funding rounds has been re-paid and how much, if any, is being returned to PITF annually.

Commissioner Lohbauer moved the recommendation to the full Commission to approve the July 2019 Pinelands Infrastructure Trust Fund Master Plan Amendment for projects and funding. Commissioner Lloyd seconded the motion and all voted in favor.

5. Garden State Parkway Interchange 44 Secondary Impacts Agreement

Ms. Grogan told the Committee that what she would be discussing today was an agreement with Atlantic County, not a Memorandum of Agreement (MOA). (*Attachment B to these minutes and posted on the Commission's website at:*

<https://www.nj.gov/pinelands/home/presentations/exit44%208-23-19%20PL.pdf>)

Ms. Grogan said in 2006 the CMP was amended to create the Parkway Overlay District, the boundaries of which coincide with the Garden State Parkway right-of-way for its entire length through the Pinelands. She said the purpose was to allow consistent treatment of the Parkway, regardless of the underlying Pinelands Management Area. She said permitted uses in the Overlay District are limited to typical highway related activities (roads, bridges, accessory facilities associated with the highway), local communications facilities, public service infrastructure, and, important to today's discussion, the improvement, expansion, and repair of existing interchanges. She said new interchanges are not a permitted use.

Ms. Grogan said in May, 2013 the Commission approved the expansion from a partial to a full interchange for Interchange 44 at Pomona Road near Richard Stockton University. She said this site is in the Rural Development Area (RDA) where housing is permitted at one dwelling unit per five acres, commercial building coverage is allowed at a 2% maximum and sewer service is not permitted. She said there was concern that pressure to redesignate the area to a Regional Growth Area with associated higher density development and sewer service would result from the improvement of the interchange. She said in order to prevent secondary impacts, those changes in the location, pattern or intensity of land use which would be inconsistent with Pinelands standards, an agreement was signed with Atlantic County obligating it to purchase lands or otherwise memorialize the existing zoning. She said the County agreed to a total of 356 acres within 1.5 miles of the Interchange to be completed within six years (December 2019).

Ms. Grogan introduced Ms. Ranae Fehr, Manager, Atlantic County Open Space Acquisition Program.

Ms. Fehr said, under the agreement, the County agreed to purchase all the required lands for both the right of way and the secondary impacts. She said the County preferred fee simple purchases as they result in a higher degree of protection but had been willing to consider conservation easements, albeit they require more oversight.

She described the process of contacting, originally eight, landowners, and the various responses, noting that, to date, the County has acquired 326 acres and anticipates closing on the remaining 30 acres by the end of the year. She said the County will continue to acquire infill properties even after the 356 acre goal has been achieved, resulting in an even higher level of protection.

In response to Commissioner Lloyd's question, Ms. Fehr said all the properties will be placed on the Recreation and Open Space Inventory (ROSI) and no intensive recreation will be permitted on these lands.

Members of the Committee congratulated the County for its success.

Ms. Wittenberg said the Commission likes to share its success stories and Atlantic County had stepped up and done an excellent job.

6. Discussion of an amended Memorandum of Agreement between the Pinelands Commission and Atlantic County related to proposed development of the Atlantic County Park at Lake Lenape

Ms. Roth said she would be discussing a request from Atlantic County to amend a 1998 MOA with Atlantic County for its park at Lake Lenape. (*Attachment C to these minutes and posted on the Commission's website at:*

<https://www.nj.gov/pinelands/home/presentations/Atlantic%20County%20Lake%20Lenape%20PI%20Presentation.pdf>)

She said the 1998 MOA permitted deviations from the development standards of the Pinelands CMP. Specifically, it allowed for construction of sewer in the Forest Area and relaxed wetland buffer requirements in order to facilitate development of the new camping sites and water dependent recreational uses at the park. She said, as the offset for the 1998 MOA, the County deed restricted 1,822 acres of the park in order to permit development on the remaining 76 acres. She noted a portion of the deed restricted land is adjacent to Makepeace Wildlife Management Area. Ms. Roth then introduced Atlantic County Assistant Counsel, Anthony Pagano.

Mr. Pagano said he had been involved with Lake Lenape for more than twenty years. He provided a presentation on the County's interest in reconfiguring the floating docks at the park for safety and efficiency (*Attachment D to these minutes*). He said the current boat launch area serves as a funnel to the lake where kayakers, sculls, swimmers, motor boats, etc. all gather. This creates a hazardous and, for the sculls, an unwieldy situation. The current dock is in need of upgrading and rather than invest in restoring an outdated dock, the County is proposing reconfiguring the existing dock to accommodate the smaller watercraft and constructing a new dock to accommodate the sculls, which can be some 60' long. He said because the language of the MOA is so specific as to the improvements that are permitted, (site, dimension, etc. for the dock), it will be necessary to lift the Green Acres deed restriction in order for any changes to the dock configuration to be made.

Mr. Erick Husta, Atlantic County Park Superintendent, said the facility is used by thousands of visitors and there is a real need to separate the types of users. He said the County is not looking to increase the number of users, but rather to resolve incompatibility. He said the original MOA did not anticipate the conflict brought about by having vehicles backing trailers down the boat ramp next to a dock being used by kayakers and other small boats, or the difficulties encountered by the large sculls in maneuvering around an L-shaped dock. He said the proposed floating docks, a shorter one located near the existing dock at the boat ramp and a longer one on the far side of the boathouse, will not be permanent structures, have no pilings, and are not anchored to the lake bottom. Rather, the docks have concrete weights to hold them in place. He said the County has received a lot of support from the various user groups.

Mr. Pagano said the County has not yet started the formal State and Pinelands Commission public hearing processes as it wanted to meet with the Commission first. He said there will be no impact on land use standards and the County is willing to give up the opportunity to construct a second boat ramp at “Danger Beach” on the opposite side of the lake. He said although the county feels that second location would provide beneficial access to the lake, the safety concerns at the current dock location outweigh any benefits of having a second access point.

In response to a question from Chairman Prickett if the County might want to move the second, longer dock from the suggested location, Mr. Husta said that was unlikely because it needs to be in close proximity to the boat house where the sculling groups store their equipment. He also provided more detail about the proposed new docks and the ballast and tethering systems.

In response to a question from Chairman Prickett, Mr. Pagano said the County had no interest in seeing a housing development at the edge of the lake as many had called for when the park was first developed.

Commissioner Lohbauer said it was rare to have an attorney before the Commission who is so passionate about preservation and recreation.

Ms. Roth said the County cannot change the configuration of the dock area without the current deed restriction being lifted by the NJDEP Commissioner. Ms. Roth said Green Acres is amendable to the changes but, like the Commission, requires a public hearing so she is working with Green Acres to have both processes conducted concurrently.

In response to Chairman Prickett’s question if the new language of the MOA can be less specific to allow for more flexibility in the future, Ms. Roth said, yes, and it will allow for development areas but not with the specificity of the original MOA. She said this is a minor change and more of a technicality due to the way in which the 1998 MOA was written.

Chairman Prickett said this seems to be an easy MOA and he was glad that Atlantic County has come before the Committee.

Commissioner Irick moved that staff be authorized to proceed with development of an amendment to the MOA with Atlantic County for Lake Lenape. Commissioner Lohbauer seconded the motion and all voted in favor.

6. Public Comment

Mr. Fred Akers applauded Atlantic County for its support of the federal designation of the Great Egg Harbor River as a Wild and Scenic River. He said in 1992, 129 miles of the river and 17 tributaries received the designation and the associated National Park Service “passport” stamp is available at the Fox Nature Center in Estell Manor.

Ms. Rhyan Grech, with the Pinelands Preservation Alliance (PPA), advised the Commission of the extensive damage inflicted last weekend by off-road vehicles (ORVs) upon the recently acquired Katz property (*a Pinelands Conservation Fund project*) in Pemberton Township. She said freshly planted seedlings were obliterated and trash and a smoldering fire were left behind. She said PPA was working with the Rancocas Conservancy on protecting the property.

A brief discussion ensued with the Commission noting that, with limited resources, NJDEP, the State Police, and the Commission depend upon the public to be notified of such activity and more education and enforcement are needed to deter such wanton destruction.

Mr. Bunnell said the barriers erected to protect certain ponds have been effective on State lands.

Mr. Jay Mounier, Franklin Township resident, said the problems of trespassing and vandalism is of no surprise to the agricultural industry as this has been a long time problem for farmers. He noted that yesterday, a neighboring farmer encountered a woman trespassing on his alfalfa field, using her metal detector, digging holes and damaging the smooth fields required for safe operation of equipment. She did not care that she was trespassing. Mr. Mounier said there needs to be more effective penalties, including confiscation of vehicles.

Chairman Prickett noted that Pemberton Township has a particularly difficult problem as there is a community culture of riding ORVs, including on protected lands such as the J.J. White farm and Whitesbog Village. He said it is not easy to change behavior.

Commissioner Irick noted that some states provide recreation areas for ORVs and he cited the extensive program in Virginia.

Commissioner Lloyd said the State, with participation by the Commission, had tried but was unable to find a suitable tract that could accommodate such vehicles.

There being no other items of interest, the meeting adjourned at 11:06 a.m. (moved by Commissioner Lohbauer and seconded by Commissioner Irick).

Certified as true and correct:



Betsy Piner,
Principal Planning Assistant

Date: August 29, 2019