

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
November 22, 2013 – 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Mark Lohbauer, Paul E. Galletta, Robert Jackson, and Richard Prickett.

MEMBERS ABSENT: Leslie Ficcaglia

OTHER COMMISSIONER PRESENT: Ed Lloyd (*Commissioner Lloyd participated in discussion but did not vote on any matter.*)

STAFF PRESENT: Executive Director Nancy Wittenberg, Larry Liggett, Susan R. Grogan, Stacey Roth, Ed Wengrowski, Paul Leakan, Jessica Noble and Betsy Piner. Also present was Ms. Kerstin Sundstrom, with the Governor’s Authorities Unit.

Chairman Lohbauer called the meeting to order at 9:30 a.m.

2. Adoption of minutes from the October 23, 2013 CMP Policy & Implementation Committee meeting

Commissioner Prickett moved the adoption of the October 23, 2013 meeting minutes. Commissioner Jackson seconded the motion and all Committee members voted in favor.

2. Pinelands Conservation Fund

Request from The Trust for Public Land for an advancement of funding prior to closing

Ms. Grogan made a presentation on the request submitted by the Trust for Public Land (TPL) for payment in advance of closing for the Clayton project (*see Attachment A*). She said that the natural resource value of the property had been identified in the Toms River Corridor Plan (*A Regional Natural Resource Protection Plan for the Toms River Corridor, Jackson and Manchester Townships, Ocean County, New Jersey, February 2004; http://www.state.nj.us/pinelands/infor/broch/toms_river_corridor.pdf*) and that acquisition by the TPL will be the mechanism through which the property is preserved. Because of the previous mining activity, restoration of the property is required. Ocean County, which is allocating some of the funds for the project, was concerned about acquiring a property with an outstanding violation. Fortunately all parties participated in developing a restoration plan. The

Commission's Project Review staff has signed off on the restoration plan, and the Ocean County Natural Lands Trust has approved the fair market value and secured its portion of the funding. The ability to request funding in advance of closing is consistent with the procedures of the Pinelands Conservation Fund program, and the Committee has approved such funding requests in the past.

In response to Commissioner Prickett's request that she further describe the type of restoration that will occur, Ms. Grogan said that because so much time has passed since the cessation of mining operations, much habitat had been created through natural revegetation. The Commission staff did not want traditional restoration to occur, rather approved activities that would further enhance the habitat, including removal of sand piles, planting of native grasses and creation of hibernacula.

Chairman Lohbauer said the Commission was grateful to TPL.

Commissioner Galletta moved the advancement of funding prior to closing to the Trust for Public Land in the amount of \$296,292.00 for the Clayton project in Ocean County. Commissioner Prickett seconded the motion and all voted in favor.

Allocation of funding to the Cape May County Municipal Utilities Authority for a comprehensive wastewater planning study involving the Borough of Woodbine

Mr. Ed Wengrowski, the Commission's Environmental Technologies Coordinator, made a presentation on a proposal by the Cape May County Municipal Utilities Authority (CMCMUA) for a comprehensive wastewater planning study (*See Attachment B*). He said that Woodbine Borough sees this as an opportunity to partner with the CMCMUA to deal with three major issues that could benefit from a sewer connection to the CMCMUA treatment plant: the trucking by 6 to 18 truckloads/day of some 81,000 gallons/day (gpd) of Woodbine landfill leachate; the treatment of some 100,000 gpd of sewage onsite at the Woodbine Developmental Center's aging, but recently upgraded, onsite treatment plant, and the reliance on onsite septic systems in downtown Woodbine for current and future development, generating another, at a minimum, 100,000 gpd of sewage. He said that the United States Department of Agriculture (USDA) through its Rural Development Program is contributing \$90,000 to CMCMUA to recommend long-term solutions for the treatment and disposal of landfill leachate. It is likely that the study will lead to a recommendation that a sewer line be constructed from the landfill to the Seven Mile/Middle Regional treatment plant. As the USDA requires a \$30,000 local cash match, the CMCMUA is contributing \$10,000 as well as substantial in-kind engineering and project management services.

Mr. Wengrowski said that Woodbine Borough has requested financial assistance from the Commission for the balance of the \$20,000 cash contribution. He said that staff has reviewed the request and sees the benefit of enhancing water quality management goals by eliminating septic systems in the Borough's Pinelands Town Management Area. In addition, as Woodbine is a struggling, impoverished community, it could benefit from having sewer service with which to attract new businesses. He said that funding could be provided through the Community Design element of the Pinelands Conservation Fund. Staff would also provide in-kind service to

the project. He said the draft resolution in the Committee's packet authorizes the Executive Director to enter into a Memorandum of Understanding with the Borough and the CMCMUA to advance the project.

Mr. Liggett said that Woodbine has no professional staff yet wants to participate in the study. The Borough wants an additional \$50,000 to hire its own staff. The USDA has offered an additional \$30,000 for this purpose and the Borough is requesting that the Commission donate an additional \$20,000 above that already requested, which staff is not recommending at this time.

Ms. Wittenberg invited Mayor Bill Pikolycky to address the Committee.

Mayor Pikolycky thanked Mr. Wengrowski for the presentation. He said that the Borough sees this as an once-in-a-lifetime opportunity but wants to be treated as an equal player, hence the need for its own professional staff to participate in the study. He said that Woodbine is a struggling municipality but spends any assistance wisely. He asked that the Commission at least leave open an opportunity to return and request additional funding, if needed, for this project.

Commissioner Jackson said that the mayor is correct, and it would be a great collaborative project to deal with the leachate and remove some 18 trucks/day from the roads.

In response to a question from Chairman Lohbauer regarding the need for Woodbine to hire professional staff, Mr. Liggett said that the consultants would participate in meetings with the MUA, although their presence would not be required for all meetings and, in fact, the study has already started.

Chairman Lohbauer asked, for the benefit of the public, that staff explain how additional development in Woodbine would be appropriate.

Mr. Wengrowski directed everyone's attention to the Land Capability Map and indicated areas at the core of the Pinelands where preservation is the goal, while development is encouraged on the fringe, and in the growth areas, such as Pinelands Towns.

Commissioner Prickett asked, since the residents are poor, are there grants available to help pay for hook-up to sewer.

Mr. Wengrowski said that he had expressed the same concern. Staff is trying to identify costs up front and will continue to work with the Borough to secure funding.

Mr. Liggett said there is lots of vacant land in the Borough near the airport and the Borough has always had an interest in building an industrial park.

In response to Commissioner Prickett's question if the Borough were served by a municipal water supply, Mayor Pikolycky responded, yes, it was.

Commissioner Galletta said he thought this was a great project and asked about the quality of the leachate.

Mr. Wengrowski said that it is industrial waste and must be diluted before it can enter the wastewater stream at the treatment plant.

Commissioner Jackson moved the recommendation to the Commission to enter into a Memorandum of Understanding with the Borough of Woodbine and the Cape May County Municipal Utilities Authority and revise the FY2014 Pinelands Conservation Fund budget in order to contribute \$20,000 towards a comprehensive wastewater planning study in Woodbine Borough. Commissioner Galletta seconded the motion and all voted in favor.

Chairman Lohbauer thanked Mayor Pikolycky for attending the meeting.

3. Executive Director's Report

Dennis Township Resolution 12-10 and Ordinance 2013-03, adopting chapters 165 (Subdivision of Land) and 185 (Zoning) of the Township's Code, responding to the clustering, forestry and wetlands management Comprehensive Management Plan amendments and adopting a revised Zoning Map

Ms. Grogan said that she was happy to have the documents submitted by Dennis Township on today's agenda as this has been a lengthy process. Included are a new Master Plan and the response to the three sets of Comprehensive Management Plan (CMP) amendments dealing with forestry, wetlands management and cluster development in the Forest Area (FA) and Rural Development Area (RDA). She said despite the fact that Dennis had more questions than any other municipality about these amendments, the Township adopted them with no changes.

Ms. Grogan said some years ago, Dennis had adopted a revised zoning map but never sent it to the Commission, which continued to rely on the 1983 map as originally certified. Ms. Grogan said she had methodically reviewed each change and the level of detail was such that it was impractical to map for the Committee. These numerous small changes in the Pinelands Area, in some cases mere slivers of lots, better recognize lot and management area lines in the Pinelands Villages (PV) of Belleplaine, Eldora and Dennisville. The net result is an increase of 13 acres in the PV, one acre in the Rural Development Area, and a loss of 14 acres in the Forest Area. Because the increase in the PV is largely due to the addition of portions of developed lots, no offsetting reduction is necessary. There may be additional changes the Township wishes to make in the future.

Ms. Grogan said that earlier in the year, Dennis had received Center Designation from the State Planning Commission (SPC) for five village centers within that portion of the municipality in the Pinelands National Reserve (PNR) but outside the Pinelands Area (PA). Dennis requested that the Commission review and approve its Master Plan and land use ordinances for the portion east of the Garden State Parkway (within the PNR but outside the PA). However, staff advised the Township that such a request was premature at this time as the SPC had not authorized changes in state planning area designations outside these five centers. She said that she would continue to work with the SPC and the Township towards its goal of certification in the PNR.

Commissioner Jackson moved the recommendation to the Commission to certify Dennis Township's Resolution 12-10 and Ordinance 2013-03. Commissioner Prickett seconded the motion and all voted in favor.

4. Updated on draft Memorandum of Agreement with the Board of Public Utilities

Ms. Wittenberg said that staff had drafted a Memorandum of Agreement (MOA) with the Board of Public Utilities (BPU) and it would be posted early next week along with details of a public hearing. A meeting of the Policy and Implementation (P&I) Committee would be scheduled for the week of December 2, 2013. A draft Executive Director's report would be discussed at the P&I meeting in early January and then the MOA would be scheduled for action at the January 10, 2014 Commission meeting.

5. Public Comment

Chairman Lohbauer opened the meeting to public comment and noted that each speaker would be granted a three minute interval, with Ms. Noble tracking the time and issuing a 1-minute warning with the timer on her cell phone. He requested that those who had spoken previously not repeat earlier testimony in order to give everyone an opportunity to speak.

Mr. Jeff Tittel, Director of the NJ Sierra Club (and the sole individual to sign up to speak on any matter other than the pipeline), referenced the discussion of the wastewater planning study in Cape May County. He said that Woodbine was an impoverished community whose mayor had done much good work to help, the cost of installing sewerage would be very costly to homeowners who might face potential costs of \$12,000 to hook into a sewer line. Furthermore, like water or gas pipelines, long sewer pipelines outside Woodbine promote development and sprawl, which will lead to further depletion of the aquifer.

Mr. Bob Fatzinger, with South Jersey Gas, referenced his earlier presentation to the Committee (*see Minutes of the September 27, 2013 Committee meeting*) and said that he would refine some of his earlier testimony in response to questions that had been raised since he last spoke. He said that with the 142,000 customers in Cape May and Atlantic Counties the issue of loss of power, including to the 20,000 Pinelands customers, is of real concern. He said that the construction of the pipeline will alleviate that concern but, due to geographic limitations, there are limited routes that will provide the necessary redundancy. He said that a recommendation to use Route 50 would not be appropriate as a pipeline at that location would eliminate the redundancy that SJG is seeking. He also said that the horizontal directional drilling (HDD) technique is widely accepted and all best management practices would be applied to avoid sensitive areas. Finally, regarding pipeline safety, New Jersey regulations are more stringent than those of the Federal government.

Mr. Jim Kehoe said that the proposed pipeline will be the safest pipeline constructed in the nation as most of it will be located at 4' below grade with 24-hour continuous remote monitoring

He said the pipeline will be constructed of state-of-the-art materials, provide more than 1,000 jobs, would render the B.L. England plant cleaner and will enhance power security.

Mr. Paul Dietrich, Upper Township Engineer, thanked the Commission for its thorough review of the project and read into the record an endorsement from the Township. He asked the Commission to approve the project.

Ms. Vicky Clark, President of the Cape May County Chamber of Commerce representing some 850 businesses, asked the Commission to approve the pipeline. She said her endorsement focused on the economic impact that a power interruption might bring. She said that Tourism is the #2 industry in the State and much of it is contributing to the economy of Cape May County. She said that any risk from the pipeline could not compare with the devastation to the seasonal economy should there be a loss of power.

Dr. Ted Gordon, Director of Pine Barrens Inventories and former Pinelands Commissioner, said that he opposed the pipeline route and quoted from the Pinelands Commission Mission Statement regarding the goals of “preserving, protecting and enhancing” Pinelands resources. He said that each Commissioner has a statutory obligation to uphold the CMP, a well-conceived document. He said to use an MOA to circumvent the CMP is atrocious. One cannot make up the rules as one goes along. He beseeched the Commission to follow its own regulations.

Ms. Blanche Krubner said that she was disappointed in the discussion. She said that emphasizing the safety of the pipeline does not obliterate the fact that it is tearing apart the CMP. She said the Commission was breaching the trust of the public and asked why BPU, not the gas company itself, was the partner in the MOA. She asked who would supervise and oversee the project and why the Commission was diluting its own power by handing it over to a private company. She said the public is watching and asked how much the public will be able to trust the Commission.

Ms. Hedy Bauer said she had spoken twice before. She said that 1978 (*Federal National Parks and Recreation Act of 1978*) represented a bold act of stewardship. But with this project, the Pinelands are not being protected. She said there have been no exceptions for pipelines thus far and she referenced the destruction of land caused by pipelines in North Jersey. She said once the land is destroyed, it will never be the same. She opposed this project as it would damage ecologically sensitive areas of New Jersey. She said that fossil fuels should be replaced by solar and wind power.

Ms. Nancy Klein said that all sides on this issue have spoken and it was an emotional issue. She asked the Commissioners look to the future. This project is not just about the gas line but how other industries will view this open door. She asked what this project will mean for future generations. She said the entire nation looks to New Jersey for its environmental leadership. She said John McPhee’s book changed how the Pine Barrens is viewed; when the Commission says “No” to this project, it will protect the future.

Mr. Andrew Bulitowski said the pipeline is an opportunity to stimulate the South Jersey economy. This technology should not be overlooked.

Ms. Margit Meissner-Jackson, with the Ocean County Sierra Club, said she opposed the pipeline. Much land would need to be cleared for the installation, and an additional set-back distance is needed due to the hazardous risk. According to the Gas Research Institute, the safety radius depends on the size and pressure of the pipeline. She said this was supposed to be protected land. The Pinelands is one of only 225 UNESCO-designated Biospheres in the world, and this is “our” aquifer. She said Rutgers University says that by the end of the Century, there will be a 4’ sea level rise and everyone along Route 9 will be inundated.

Dr. Poun`e Saberi, a physician, said she opposed the pipeline due to the carcinogenic properties and the effects on oil and gas workers. She cited hazards from accidents and explosions and said they were under-reported by the Occupational Safety and Health Administration (OSHA). She said a high pressure pipeline is a disaster waiting to happen, noting that pipelines leach benzene and radon and contribute to outdoor air pollution.

Ms. Ann Dixon said she loved the Pine Barrens. She discussed the numerous pipeline accidents in recent years and the impact of fracking and the associated release of methane upon climate change. She said that the canoe liveries and farmers in the Pinelands depend upon clean air and water. She said true energy independence depends upon renewable sources and asked the Commission to deny the pipeline.

Ms. Coryn Wolk said the number of pipeline accidents is overwhelming and there are problems associated with detecting leaks and extinguishing fires. She said despite the assurances from industry that only the best and newest technology and materials will be used for construction, pipelines routinely explode and leak. She said the rationale for re-firing the B.L. England plant with gas is because coal is dirty. However, fracking is worse than coal and its impact on climate change. She asked that the Commission not set a precedent by putting the Pine Barrens at risk and allow this pristine resource to remain untouched.

Mr. Arnold Fishman said he opposed the pipeline and would not reiterate his previous remarks.

Ms. Temma Fishman, Medford Lakes resident, referenced the Commission’s presentation at the November meeting regarding its participation in World Water Monitoring Day at Batsto Village. She said that children are our future and that there is great joy in outdoor education. She expressed concern that future generations will never experience what we have now. She asked how can we say that we had no choice to run a pipeline instead of stemming the pipeline tidal wave. This was a chance to determine what we know is right. The Commissioners are the guardians and must say “No” to the proposed MOA. Then the public will remember all the good the Commission did.

Mr. Jim Rapp said that the issue is fracking, not just the pipeline. He said the Commission has heard the outrage from the public for many months over issues of limited routes, HDD, pipeline safety, etc. He asked who would oversee the project and how would it be protected from ecoterrorism threats. He said industry has failed to seek alternatives and made no investment in solar. The gas company should not be rewarded with the profits it will make from this project.

Mr. Jeff Tittel asked if there is a market for the electricity when the B.L. England plant is re-powered. He said the Commission needs its own experts to deal with this matter and is going down the path of death by 1,000 cuts. He said other regulatory agencies will now come before the Commission for all sorts of projects that are not needed. He said this project was being rushed and there had still been no expert testimony. He said this is the Pinelands Protection Act, not the Pinelands Permissive Act.

Ms. Georgina Shanley, with the Don't Gas the Pinelands Coalition, said the CMP was being violated for money and political gain. She said her group had submitted a petition with 12,000 signatures opposing the pipeline and that the Commission has the high moral ground. She said the public feels the treachery with the project being accelerated and that Ms. Roth has yet to provide an impact study. She asked the Commission not to allow falsehoods and misinformation guide it.

Ms. Kate Millsaps, with the NJ Sierra Club, and **Ms. Emily Reuman**, with Food and Water Watch, shared posters containing photographs and notes submitted by members of their organizations demonstrating why they are thankful for the Pinelands. They asked the Commission to deny the project

Mr. Bill Wolfe, with Public Employees for Environmental Responsibility (PEER), said this had been a tainted process and asked that a public hearing not be conducted. He said the mitigation costs will be viewed as a "shake-down" of the industry.

Ms. Virginia Tamets said no one is looking for clean energy for the future. Currently there is an excess supply of gas, and Meghan Foley of Wall Street Week has said that there is a push for the Department of Energy to approve the exportation of natural gas.

Mr. Patrick Mulligan said this was his first meeting and he asked that the Commission not allow the frittering away at the edges of the Pinelands. He wanted to see open space in South Jersey as, ecologically, this is a terribly important area and should be preserved even 200 years from now.

Mr. Carl Ford, who identified himself as a "Piney," said he wanted to see the Pine Barrens preserved so that he could paddle on the Tuckahoe River with his grandson in the future. He implored the Commission to do its duty and preserve the sanctity of the Pine Barrens.

Ms. Linda Baum said the commenters who have requested approval of the project are distracted from the real issue: Should the Commission be fast-tracking a project for fossil fuels? Although natural gas is clean burning, the extraction process is dirty. Also, gas is a cheap fuel now but that will change when it is on the world market. Solar and wind technologies should be promoted, and the Commission should have a vision for the future.

Mr. Mike Neuhaus, Bordentown, NJ resident, said he had attended many of these meetings and knows that there are some on the Commission who have integrity. The Pine Barrens is a treasure, and he encouraged the Commission to make a positive change for the global environment.

Mr. Lee Traband, Woodbury, NJ resident, said he was a first time attendee. He requested that the Commission take the same precautions with the Pinelands as they do with their own families to protect the web of life and apply precautionary principles.

Ms. Ann Kelly read some comments included on a petition to stop the pipeline.

Ms. Marianne Clemente, Barnegat Township, NJ resident, said the Commission was falling into treacherous territory and just as the Nuclear Regulatory Agency accepts the reports submitted by Exelon on the Oyster Creek power plant, the Commission is accepting the assertions of South Jersey Gas. The Commission is not seeking objective scientific studies. The Commissioners are the designated stewards of the Pinelands and must protect it and deny the pipeline. She said that the Commission could not ignore the objectors but are obviously not listening to the public. She said she did not understand how the Commissioners allowed this project to get to this point.

Mr. Richard Fellows said he lived in Tuckahoe and the pipeline will pass his property. He said that all pipelines that have failed abided by the requirements at the time. They are guidelines, and safety regulations are red herrings. He displayed a list of pipeline failures. He said the B.L. England could come into compliance as a coal-fired plant but it would be more costly. As for redundancy, if the BL England plant were a compliant coal-fired plant, there would be no need to rely on the pipeline.

Ms. Margo Pellegrino said granting this pipeline would be a huge mistake. She said the Commission appears to ignore the public. She said the gas line will kill diversity in power sources and that, with all the 'for sale' signs in coastal areas, it is unknown if there is even a need for the re-firing of the B.L. England plant.

Mr. Tom Mahedy said perhaps the park police who are present today could stop this environmental crime. He said most likely the gas will be sent overseas.

Ms. Bridget Reilly said she was outraged that the public had to be here to oppose the pipeline and she noted the smirking and laughing by those who supported the pipeline. If the pipeline MOA is allowed, it will be a sad situation.

Mr. Fred Akers said he objected to using the specter of Superstorm Sandy as motivation to build the pipeline. He said that, south of Tuckahoe Village, there will be no redundancy. As for the early discussion of the wastewater planning study, he suggested that Woodbine go back and look at the Commission's Rural Economic Development pilot program as it contains good information regarding population, demographics, etc.

Mr. Mike Delosian, with Food and Water Watch, made a statement on behalf of a woman who was unable to attend today's meeting. She said she was a former employee at Fort Monmouth. When it closed, all the union jobs were lost. She said for those who support the pipeline as a job creator, they should be advised that they are temporary jobs and union jobs are not always safe when money is involved.

Mr. Jay E. Mounier, resident of Franklin Township, Gloucester County, said that he's been listening to the discussion of the pipeline for months and months. He said he was troubled that the environmental standards of the CMP were not the bases of the issue before the Commission. He said in order to provide the utilities that are needed, the CMP should be amended.

Mr. Jim Schiavo said we depend upon fossil fuels and we need energy and need it everywhere. We need to make provisions to service everyone.

Ms. Janet Jackson-Gould, Medford, NJ resident, said an MOA is a way to make an end run around an issue and is not the way to get things done. She said this will set a terrible precedent and asked that the Commission please not sign the MOA.

At 12:12 p.m., Chairman Lohbauer closed public comment.

Commissioner Jackson said he appreciated hearing from everyone.

Commissioner Prickett said he too agreed that he appreciated the involvement of the public and that this had been the 8th meeting at which comment had occurred on the pipeline.

Commissioner Jackson said it really diminishes the value of what a speaker says when s/he is disrespectful of the comments of others.

6. Other Items of Interest

There being no other items of interest, the meeting adjourned at 12:15 p.m. (moved by Commissioner Prickett and seconded by Commissioner Jackson).

Certified as true and correct:



Betsy Piner,
Principal Planning Assistant

Date: December 13, 2013

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