

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

MEETING MINUTES OF JUNE 18, 2015

CONFERENCE ROOM 129
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
TRENTON, NEW JERSEY

ATTENDANCE

BOARD MEMBERS:

JOSEPH E. DOYLE, CHAIR
VALERIE HRABAL
J. TIMOTHY KERNAN
RICHARD M. MASER
THOMAS OLENIK
EDWARD M. SMITH
JANICE TALLEY

DCA STAFF:

AMY FENWICK FRANK
JOHN LAGO

GUESTS:

DAVID FISHER	NEW JERSEY BUILDERS
ASSOCIATION	
VINCENT MAZZEI	DEPARTMENT OF ENVIRONMENTAL
PROTECTION	
JOHN SHOWLER	DEPARTMENT OF AGRICULTURE
SUSAN WEBER	DEPARTMENT OF TRANSPORTATION
GREG PERRY	MORRIS COUNTY PLANNING BOARD
JACLYN RHOADS	PINELANDS PRESERVATION ALLIANCE

CALL TO ORDER

JOSEPH DOYLE, CHAIR OF THE SITE IMPROVEMENT ADVISORY BOARD,
CALLED THE MEETING TO ORDER AT 10:16 A.M.

OPEN PUBLIC MEETINGS ACT

CHAIRMAN DOYLE ANNOUNCED THAT, IN ACCORDANCE WITH THE OPEN
PUBLIC MEETINGS ACT (P.L. 1975, CHAPTER 231), NOTICE OF THE TIME,
DATE, AND PLACE OF THIS MEETING WAS GIVEN TO THE SECRETARY OF STATE
OF NEW JERSEY, THE STAR-LEDGER OF NEWARK, THE ASBURY PARK PRESS,
THE PRESS OF ATLANTIC CITY, AND THE COURIER-POST OF CAMDEN.

APPROVAL OF MINUTES

CHAIRMAN DOYLE ASKED WHETHER THERE WERE ANY CORRECTIONS TO THE MINUTES OF THE MAY 15, 2014 MEETING. THERE WERE NONE. A MOTION TO APPROVE THE MINUTES WAS MADE BY MR. MASER AND SECONDED BY MS. TALLEY. ALL VOTED IN FAVOR WITH THE EXCEPTION OF MR. KERNAN WHO ABSTAINED.

OLD BUSINESS

A. STATUS OF APPLICATION FOR SPECIAL AREA PARKING STANDARD FOR OCEAN GROVE, NEPTUNE TOWNSHIP, MONMOUTH COUNTY

CHAIRMAN DOYLE SAID THAT HE WOULD ENTERTAIN A MOTION TO DISMISS WITHOUT PREJUDICE THE MATTER OF THE NEPTUNE TOWNSHIP SPECIAL AREA STANDARD FOR PARKING IN OCEAN GROVE. THE CHAIRMAN POINTED OUT THAT THERE COULD BE NO FURTHER ACTION ON THE PART OF THE BOARD UNTIL OR UNLESS THERE WAS SOME FURTHER ACTION BY OR RESPONSE FROM NEPTUNE TOWNSHIP. MR. MASER MADE A MOTION TO DISMISS THIS MATTER WITHOUT PREJUDICE WHICH WAS SECONDED BY MS. TALLEY. ALL WERE IN FAVOR.

B. DEPARTMENT OF AGRICULTURE, SOIL COMPACTION RULES

MR. SHOWLER REVIEWED WHAT HAS TRANSPIRED WITH THE SOIL COMPACTION RULES. THE ADMINISTRATION REJECTED THE ORIGINAL PROPOSAL AND THE ISSUE WAS REMANDED BACK TO THE DEPARTMENT OF AGRICULTURE. THE DEPARTMENT RECONSTITUTED ITS ADVISORY GROUP, WHICH NOW HAS 17 PARTICIPANTS. THE LANGUAGE IN THE ACT ITSELF CALLING FOR ANY REQUIREMENTS IMPOSED TO BE "COST EFFECTIVE" HAS BECOME THE SUBJECT OF SOME DEBATE. THE BENEFIT OF ADDRESSING SOIL COMPACTION CANNOT BE QUANTIFIED AND DISAPPEARS OVER TIME. ONE GROUP IS ATTEMPTING TO ESTIMATE COSTS BASED ON DIFFERENT SCENARIOS AND ANOTHER GROUP IS ATTEMPTING TO PUT A DOLLAR FIGURE ON THE BENEFIT. AT THIS POINT, IT APPEARS THAT THE RECOMMENDATION WILL BE TO GIVE A WRITTEN LIST OF BENEFITS.

ONE OF THE DIFFICULTIES, AS DESCRIBED BY MR. SHOWLER, IS FOUND IN THE VERY CONCEPT OF SOIL HEALTH OR SOIL QUALITY. IMPROVED SOIL CONDITIONING IS AN AGRICULTURAL PHENOMENON. IT IS HARD TO TRANSLATE THAT TO TURF AREAS THAT WILL BE SUBJECT TO HUMAN TRAFFIC, VEHICULAR TRAFFIC, MOWERS. THESE AREAS ARE VERY DIFFERENT IN FORM AND FUNCTION. IT IS NOT POSSIBLE TO IMPOSE THE STANDARDS FOR SOIL HEALTH OR SOIL CONDITIONING TO A DEVELOPMENT SITE. IT WAS ALSO NOTED THAT ANY PROPOSED SOIL COMPACTION REQUIREMENTS WOULD NOT APPLY TO SITES WHICH ARE ALREADY DEVELOPED. THE IMPETUS FOR THE ENABLING LEGISLATION WAS CONCERN ABOUT RUN-OFF INTO BARNEGAT BAY, BUT THE AREAS AROUND THE BAY ARE ALREADY DEVELOPED, SO THE PROPOSED RULES WOULD HAVE NO IMPACT THERE.

IN RESPONSE TO A QUESTION FROM MR. KERNAN, MR. SHOWLER INDICATED THAT VEGETATION IS BEING CONSIDERED AS AN ALTERNATIVE. A MEADOW

(NON-MAINTAINED AREA) CREATED WITH TARGETED RESTORATION TECHNIQUES OR AN EXISTING WOODED AREA COULD LEGITIMATELY BE DEDUCTED FROM THE DRAINAGE CALCULATIONS.

CHAIRMAN DOYLE THANKED MR. SHOWLER FOR ATTENDING AND GIVING THE BOARD AN UPDATE. HE NOTED THAT THERE HAS BEEN NO CHANGE IN THE BOARD'S POSITION ON THESE RULES. MS. HRABAL CONTINUES TO MONITOR THIS INITIATIVE ON BEHALF OF THE BOARD.

NEW BUSINESS

A. DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) PROPOSAL TO AMEND THE FLOOD HAZARD AREA CONTROL ACT RULES, THE COASTAL ZONE MANAGEMENT RULES AND THE STORMWATER MANAGEMENT RULES

MR. MAZZEI BRIEFLY DESCRIBED HIGHLIGHTS OF THE PROPOSAL IN THE JUNE 1 EDITION OF THE NEW JERSEY REGISTER. HE EXPLAINED IT ADDRESSES ISSUES WITH THE ENFORCEMENT OF THE RULES, INCLUDING AREAS OF CONFLICT OR OVERLAPPING JURISDICTION WITH THE STORMWATER MANAGEMENT RULES. THE PROPOSED AMENDMENTS WOULD DELETE THE SPECIAL WATER RESOURCE PROTECTION AREAS FROM THE STORMWATER MANAGEMENT RULES AND MERGE THE REQUIREMENTS WITH THOSE FOR RIPARIAN ZONES IN THE FLOOD HAZARD AREA CONTROL ACT RULES. THIS WOULD ELIMINATE OVERLAPPING BUFFERS. THE PROPOSED AMENDMENTS ALSO REMOVE ALL REFERENCES TO ACID-PRODUCING SOIL DEPOSITS. OVER TIME, IT HAS BEEN OBSERVED THAT DISCHARGES OUTSIDE THE BUFFER ARE ERODING CHANNELS AND EXPOSING ACID SOILS. THE REQUIREMENTS APPLICABLE TO ACID-PRODUCING SOILS WOULD BE UNDER THE SOLE JURISDICTION OF THE SOIL CONSERVATION DISTRICTS. IN GENERAL, HE CHARACTERIZED THE PROPOSED RULES AS SIMPLER AND MORE FLEXIBLE.

THE PROPOSED AMENDMENTS WOULD CREATE GENERAL PERMITS BY CERTIFICATION, AN INSTANT, ON-LINE CERTIFICATION AND PERMIT. THE PROPOSAL ALSO EXPANDS THE LIST OF ACTIVITIES ADDRESSED THROUGH A PERMIT BY RULE. HE NOTED THE PROPOSAL ALSO HARMONIZES THE FLOOD HAZARD AREA CONTROL ACT RULES WITH AMENDMENTS TO THE COASTAL ZONE MANAGEMENT RULES TO BE ADOPTED ON JULY 6.

IN RESPONSE TO A QUESTION FROM CHAIRMAN DOYLE AS TO WHETHER THIS RULE PROPOSAL IS SOMETHING THE BOARD SHOULD ADDRESS, MS. HRABAL RESPONDED THE RSIS DO NOT REFERENCE THE FLOOD HAZARD AREA CONTROL ACT RULES. THE BOARD WILL NEED TO ACT TO CHANGE THE STORMWATER RULES IN THE RSIS ONCE THE REVISED RULES ARE ADOPTED BY DEP. THE PROPOSAL DOES SIMPLIFY THE DEP REQUIREMENTS. SHE AGREED WITH THE CHAIRMAN THAT THERE IS NOT A REASON FOR THE BOARD TO COMMENT ON THE PROPOSED AMENDMENTS; THE RSIS ARE NOT IMPACTED.

IN RESPONSE TO A QUESTION FROM MR. KERNAN, MR. MAZZEI INDICATED THAT THE DEPARTMENT'S TARGET FOR ADOPTION WOULD BE SOMETIME

EARLY IN 2016. THE PUBLIC COMMENT PERIOD EXTENDS UNTIL JULY 31, 2015.

CHAIRMAN DOYLE THANKED MR. MAZZEI FOR ATTENDING AND FOR BRIEFING THE BOARD ON THE RULE PROPOSAL.

B. S-2818, A BILL TO AMEND THE REQUIREMENTS FOR PRELIMINARY AND FINAL SUBDIVISION OR SITE PLAN APPLICATIONS IN THE MUNICIPAL LAND USE LAW

MR. FISHER, IMMEDIATE PAST PRESIDENT OF THE NEW JERSEY BUILDERS ASSOCIATION (NJBA,) DESCRIBED THE CHANGES OVER TIME IN THE WAY MUNICIPALITIES TREAT DEVELOPMENT APPLICATIONS. THE MUNICIPAL LAND USE LAW (MLUL) TALKS ABOUT APPLICATIONS IN TENTATIVE FORM FOR DISCUSSION PURPOSES. MUNICIPALITIES HAVE DEVELOPED MORE COMPLEX ORDINANCES AND CHECKLISTS. THESE GO BEYOND "TENTATIVE" AND REQUIRE FULLY DEVELOPED SUBDIVISION OR SITE PLAN APPLICATIONS. THIS PRACTICE HAS FORCED APPLICANTS TO DESIGN THE PROJECT WITH EVERYTHING INCLUDED IN THE PLANS TO THE POINT WHERE DETAILED ENGINEERING PLANS HAVE BEEN PREPARED. THIS BILL WOULD DEFER MUCH OF THE ENGINEERING WORK TO THE FINAL APPLICATION. FOR PRELIMINARY APPLICATIONS, THE EMPHASIS WOULD BE ON THE PLANNING AND ZONING ASPECTS OF AN APPLICATION. THE PROPOSED CHANGES TO THE LAW WOULD ALLOW BOARD MEMBERS AND THE PUBLIC TO WEIGH IN ON THE DESIGN OF THE PROJECT AND WOULD GIVE GREATER FLEXIBILITY IN INCORPORATING ANY RECOMMENDATIONS MADE.

THERE WAS DISCUSSION AS TO WHETHER AN APPLICANT WOULD BE VESTED AT THE POINT OF PRELIMINARY APPROVAL AND PERMITTED TO PROCEED. MR. FISHER INDICATED THAT THIS WOULD NEED TO BE ADDRESSED IN THE BILL. AN APPLICANT SHOULD NOT BE ALLOWED TO BUILD IF THE IMPROVEMENTS HAD NOT YET BEEN DESIGNED AND APPROVED. HE POINTED OUT THAT CONSTRUCTION ON THE STRENGTH OF A PRELIMINARY APPROVAL IS NOT IN THE MLUL; IT ARISES OUT OF A COURT DECISION. NEVERTHELESS, IT WAS AGREED THAT THE VESTING OF RIGHTS SHOULD BE COVERED SPECIFICALLY IN THE LEGISLATION.

MR. MASER ASKED WHETHER THERE HAD BEEN ANY DISCUSSION OF CHANGING OR TIGHTENING THE CONCEPTUAL PHASE. MR. FISHER RESPONDED THAT THERE HAD, BUT IF THE CONCEPTUAL PHASE IS TIGHTENED, AND THERE IS STILL A PRELIMINARY AND FINAL APPLICATION, THEN THERE WILL BE THREE FORMALIZED STEPS TO THE APPROVAL PROCESS. THE CURRENT BILL DOES NOT REVISE ANY OF THE PROVISIONS FOR THE FINAL SUBDIVISION OR SITE PLAN APPLICATION. MS. TALLEY NOTED THAT VARIANCES ARE GRANTED AS PART OF THE REVIEW OF THE PRELIMINARY APPLICATION. MORE INFORMATION WOULD BE NEEDED TO ADDRESS REQUESTED VARIANCES. THE LANGUAGE OF THE DRAFT BILL SHOULD BE ADJUSTED ACCORDINGLY.

MR. FISHER REPORTED THE NEW JERSEY BUILDERS ASSOCIATION WILL MEET WITH REPRESENTATIVES OF VARIOUS ORGANIZATIONS TO ADDRESS THESE CONCERNS AND TO MAKE RECOMMENDATIONS TO THE SPONSOR FOR AMENDMENTS TO THE BILL. BOARD MEMBERS AGREED THAT THE SYSTEM IS BROKEN IN THAT TOO MUCH INFORMATION IS REQUIRED FOR A PRELIMINARY APPLICATION FOR SUBDIVISION OR SITE PLAN APPROVAL. HOWEVER, THERE ARE CONCERNS WITH THE DETAILS IN THE BILL. IT WAS ALSO NOTED THAT THIS MATTER DOES NOT FALL WITHIN THE BOARD'S PURVIEW.

WITH REGARD TO THE STATUS OF THE BILL, A COMMITTEE HEARING TOOK PLACE THE WEEK BEFORE THE BOARD MEETING AND IT WAS SUGGESTED THAT ORGANIZATIONS COMMUNICATE THEIR CONCERNS TO MR. FISHER. HE ADDED THAT THE NEXT COMMITTEE HEARING HAS NOT YET BEEN SCHEDULED AND IT IS UNLIKELY THAT ANYTHING WILL HAPPEN BEFORE THE FALL.

PUBLIC COMMENTS

JACLYN RHOADS OF THE PINELANDS PRESERVATION ALLIANCE EXPRESSED CONCERN OVER BOTH THE PROPOSED FLOOD HAZARD AREA CONTROL ACT RULES AND THE CHANGES TO THE REQUIREMENTS FOR SOIL COMPACTION CURRENTLY UNDER DISCUSSION. SHE OBSERVED THAT THE ENVIRONMENTAL IMPACTS SEEM TO BE DISCOUNTED AND POINTED TO THE SIGNIFICANT BENEFITS OF PROTECTION OF THE ENVIRONMENT. IN RESPONSE TO A SUGGESTION FROM MS. HRABAL THAT THE ALLIANCE SHARE ANY INFORMATION IT MAY HAVE ON THE SOIL COMPACTION REQUIREMENTS WITH THE DEPARTMENT OF AGRICULTURE, MS. RHOADS INDICATED THAT SHE HAS DELIVERED QUANTIFIABLE COSTS AND BENEFITS TO MR. SHOWLER.

BOARD MEMBER COMMENTS

CHAIRMAN DOYLE NOTED THAT CONCERN OVER THE FAILURE OF CORRUGATED PLASTIC PIPING HAD BEEN MENTIONED AT A RECENT TRAINING SESSION FOR MUNICIPAL ENGINEERS. HE SAID THAT HE WOULD LIKE TO BRING THIS ISSUE FORWARD FOR THE BOARD TO ADDRESS. MR. KERNAN RESPONDED THAT THIS PROBLEM WAS RAISED BY AN ENGINEER IN HAMMONTON. HE THINKS IT IS THE SAME ISSUE THAT ALREADY HAD BEEN BROUGHT TO HIS ATTENTION AND WILL ASK THE ENGINEER FOR SOME DATA.

THERE WERE NO FURTHER COMMENTS FROM BOARD MEMBERS.

ADJOURNMENT

THERE BEING NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 11:45 A.M.

RESPECTFULLY SUBMITTED,

AMY FENWICK FRANK

SECRETARY TO THE BOARD