

# NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

**Meeting Minutes of September 13, 2012**

## LOCATION

Conference Room 129  
Department of Community Affairs  
101 South Broad Street  
Trenton, New Jersey

## ATTENDANCE

### **Board Members:**

Joseph E. Doyle, Chair  
Joseph A. Femia  
Valerie A. Hrabal  
J. Timothy Kernan  
Phyllis L. Marchand  
Richard M. Maser  
Elizabeth C. McKenzie  
Edward M. Smith  
Janice Talley

### **DCA Staff:**

Amy Fenwick Frank  
John Lago

### **Guests:**

John Showler  
Gregory Perry

Department of Agriculture, Soil Conservation  
Morris County Planning Board

## CALL TO ORDER

Joseph Doyle, Chair of the Site Improvement Advisory Board, called the meeting to order at 9:43 a.m.

## ROLL CALL

Roll was called and attendance was duly noted for the record.

## 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 April 19, 2012 meeting. There were none. A motion to approve the minutes was made by Mr. Maser and seconded by Mr. Kernan. All were in favor.

## OLD BUSINESS

### **A. Amendments to New Jersey Department of Environmental Protection (DEP) Flood Hazard Area Control Act Rules, Stormwater Management Rules and Stormwater Best Management Practices (BMP) Manual**

Chairman Doyle asked John Lago to give a brief update. Mr. Lago noted that DEP has not had a stakeholder meeting on its stormwater rules since the last meeting of the Site Improvement Advisory Board. Ms. Frank reported that DEP is moving forward with readoption, with amendments, of its flood hazard area control act rules. There is no publication date yet; it may be submitted to the Office of Administrative Law in October. Ms. Hrabal cautioned that, as part of this proposal, DEP is changing the definition of C-1 waterways. There will be conflicts and confusion for a time following the promulgation of this rule. Chairman Doyle asked that all proposed amendments to the DEP rules be brought forward and that members of the Board and the organizations they represent take the opportunity to review these rules and offer comments.

### **B. Proposed Changes to the RSIS for 2012 – Updating the Referenced Standards**

Mr. Lago presented a sentence to be added to NJAC 5:21-8. Staff is suggesting that the dates of the referenced standards be deleted from the technical subchapters and that they appear only in Subchapter 8. Adding this language will enable designers and reviewers to use the version of the standard they have. Some of the standards change often and the changes may be editorial in nature. Ms. Hrabal said that this generally is a good and workable solution, but she expressed concern about the ability to review substantive changes made to subsequent versions of the soil erosion rules and of the BMP manual. Mr. Lago responded that a specific edition of the DEP BMP manual is repeated and specified in Subchapter 7. This will not change. Mr. Maser agreed that this is a good solution.

Mr. Maser made a motion which was seconded by Ms. Hrabal to approve this draft amendment. All were in favor.

## NEW BUSINESS

### **A. Parking Standard Amendment – Proposed by Charles Latini, PP, ACIP, New Jersey Chapter, American Planning Association**

Chairman Doyle asked how the Board would like to respond to the proposed amendments. Mr. Maser replied that the language of the proposed amendments is objectionable. While it may have been written with the best of intentions, there is an underlying assumption that a municipality adopting its own standards would be beneficial. Ms. Hrabal agreed that the proposed changes, as drafted, leave too much to the municipality. Ms. Talley noted that the definition of urban area may refer to the definition in the State Plan. Municipalities already can allow alternative parking without going through the adoption of a special area standard for redevelopment in an urban area. Ms. Hrabal expressed concern about municipalities using this to circumvent the intent and purposes of the Act. She suggested that another column could be added for parking in urban redevelopment areas if the Board finds it is necessary. Mr. Maser added that this would depend upon the availability of mass transit and other factors. Mr. Kernan stated that urban areas typically are mixed use, and therefore, would not be subject to the RSIS. Often, it is not possible to separate the residential from the nonresidential portions of a redevelopment project. Ms. McKenzie suggested that, if the concern is an increase in the parking requirement, the requirement could be written to allow a reduction in the parking. She added that, in redevelopment areas, which may be spotty, as opposed to a large, defined area, a special area standard may not be the best solution. It was agreed that the proposal, as worded, is not acceptable. It should specify that it applies to redevelopment areas and not to whole zones. It was further agreed that municipalities should not be allowed to change the parking requirements of the RSIS through a zoning ordinance or through inclusion of a parking standard in the master plan.

The proposed amendments were referred to the Streets and Parking Committee for review.

### **B. Soil Compaction Rule Proposal – Department of Agriculture**

Chairman Doyle invited John Showler of the Department of Agriculture to address this topic. Mr. Lago noted that the referenced standards are in the Board members' meeting packets as are preliminary comments from Dr. Olenik and Ms. Hrabal. Mr. Showler reviewed the status of the proposal. The deadline for submission of comments is October 5. Many of the proposed amendments to N.J.A.C. 2:90 are minor corrections. Once the rule is adopted, the standards become part of the rule by reference. Reviewing the process, Mr. Showler noted that information on the impact of adoption of soil compaction standards was left out of the original proposal. An addendum was published in the *New Jersey Register* and the comment period was extended. Comments received will come back to the State Soil Conservation Committee at its November meeting. It is anticipated that a Notice of Adoption will then be published in the *New Jersey Register*.

A discussion of the proposed requirements for soil compaction followed. Ms. McKenzie observed that the specific problem described does not sound like something that requires a whole new set of regulations. Mr. Showler responded that experience in the field around the State indicates that the existing standards seem to be adequate if followed.

Ms. Hrabal stated that the proposed rules conflict with RSIS as written. These standards are not necessarily predictable, upfront testing adds to cost, there is a lack of predictability as to how this is quantified. Is it necessary to test every square foot of the property? In response to her question as to whether the Board would offer technical comments, Chairman Doyle stated that the Board should do so.

In response to a question from Ms. McKenzie as to whether the Department of Agriculture's proposed standard for soil compaction would apply to residential developments, Mr. Showler stated that it would apply to all development. The required interventions would have a limited impact—perhaps three to five years, depending upon how the site is maintained.

McKenzie observed that the proposed rules call for an elaborate exercise to be undertaken with only short-term benefits. This is merely cost-generative without equivalent long-term environmental benefits. It runs contrary to the intent and purposes of the RSIS. Mr. Kernan suggested that perhaps it would be helpful to look at curve numbers. There is a lack of confidence in the amount of run-off. Mr. Showler responded that there is a question as to whether commonly used modeling accurately reflects run-off. This has been the subject of much debate. Chairman Doyle questioned the rationale of imposing these requirements if everyone is aware that there is a limited benefit of only three to five years duration.

Ms. Hrabal offered some background based on her attendance at the committee meetings. These requirements are being driven by Ocean County, and specifically, the Barnegat Bay area. This is an attempt to impose a statewide solution to a problem encountered there, but soil conditions are not the same statewide. Ms. McKenzie asked whether there would be any benefit in pointing out that the standards should be refined and specific to the various regions of the State. Mr. Showler responded that there were soil scientists from Rutgers participating in the development of these requirements. The idea is that site conditions would be measured ahead of time. The standards establish a minimum which may already exist on the site.

The discussion then went to the preparation of comments from the Board by the October 5 deadline. Chairman Doyle stated that these comments should start with the justification for the Board's involvement in the technical aspects of the proposal. Ms. Marchand noted that while the proposed rules have a regional impetus, the Board must look at whole State and what is good for everyone. This proposal does not have the global scope the Board is supposed to be dealing with. In response to comments about the costs and benefits, Mr. Showler said that the cost to comply can be calculated. The question is how to quantify the benefit.

Ms. Hrabal suggested that the Board's comments begin with the intent and purposes of the Act. Among the issues raised by the New Jersey Builders' Association was the question of how the six month grace period provided in the RSIS would be accommodated. Mr. Showler responded that, while there is no statute or regulation establishing a grace period, Soil Conservation does allow a grace period.

It was agreed that Board members should get their comments to Mr. Lago by September 24. Staff would then compile a draft and circulate it to the Board so that the comments could be submitted to the Department of Agriculture by the October 5 deadline.

A motion was made by Mr. Maser and seconded by Ms. McKenzie to authorize staff to prepare comments, as discussed, to send to the Department of Agriculture. The Board members' agreement with the comments to be submitted would be obtained via e-mail. The focus and theme of the comments would be the Board's concern with the cost vs. the benefit of the rules as proposed. All were in favor.

Chairman Doyle thanked Mr. Showler for his attendance at the meeting and his presentation to the Board.

### **C. Neptune Township's interest in special area parking standard for Ocean Grove**

Mr. Maser reported on an August 16 meeting of the Streets and Parking Committee with representatives of Neptune Township regarding a special area standard for parking in the Ocean Grove section of the Township. The committee gave several suggestions for a slightly different approach and requested some additional information. There are a limited number of properties that may be impacted. The committee asked that the Township identify how many and the size of those properties. The Township was also asked to re-measure parking. There will be another committee meeting with the Township's representatives before the application is brought back to the Board. This application is on hold at the moment awaiting this additional information from Neptune Township.

Ms. McKenzie said that she agrees with the additional information requested by the committee, but she would like a legal opinion as to the applicability of the RSIS to a redevelopment plan because a redevelopment plan is not enabled by the Municipal Land Use Law. Mr. Maser and Ms. Hrabal responded that they could not see why the RSIS would not apply.

### **D. Discussion of how Board members share information with the organizations they represent**

Chairman Doyle noted that the meetings of the Board are public meetings. Any information gleaned from Board meetings can and should be shared with the organizations the Board members represent. He also suggested that members ask whether there is feedback that these organizations would like brought back to the

Board. Using the proposed changes to DEP's stormwater rules as an example, the Chairman noted that this is a very technical subject and it is difficult for any individual to try to digest. He would like the Board members to reach out and bring forward comments, concerns or technical opinions from the organizations represented on the Board. There was general agreement.

#### **E. 10 a.m. Start Time for Board Meetings**

Chairman Doyle proposed that future Board meetings begin at 10 a.m. to allow members to avoid rush hour traffic getting into Trenton. A motion was made and seconded to begin future meetings at 10 a.m. All were in favor.

#### PUBLIC COMMENTS

There were no members of the public wishing to address the Board.

#### BOARD MEMBER COMMENTS

Mr. Kernan informed the Board of a development in South Jersey where HDP pipe was installed. The pipe is now failing. Video shows that about half of the pipe is in bad condition. It is not known at this point whether this is a manufacturing or an installation problem. The pipe is fracturing and, based on the video, appears to be brittle. In response to a question from Mr. Maser about the loads to which the pipe is subjected, Mr. Kernan indicated that most of the pipe is not under the street and there is no unusual loading. Mr. Kernan agreed to keep the Board informed as causes for this pipe failure are determined.

#### ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 11:14 a.m.

Respectfully submitted,

Amy Fenwick Frank  
Secretary to the Board