

TRANSFER OF DEVELOPMENT RIGHTS BANK BOARD

Health/Agriculture Building Auditorium
John Fitch Plaza
Trenton, NJ 08625

Monday, September 19, 2011
10:00 a.m.

AGENDA

- I. Call to Order
Reading of the "Open Public Meetings Act" notice
- II. Roll Call
- III. Approval of Minutes of March 7, 2010 meeting
- IV. Chairperson's Report
- V. Executive Director's Report
- VI. Public Comment
- VII. New Business
 - A. Fiscal Year 2012 Proposed Budget
 - B. Planning Assistance Grants
 1. General Update
 2. Grant Agreement Extension
 - A. Mansfield Township, Burlington County
 - C. TDR Implementation Discussion
 1. Berkeley Township, Ocean County TAB 5
 - D. New Jersey TDR Statewide Policy Task Force Update
 - E. Highlands TDR Update
 - F. Pinelands Development Credit Bank Administration TAB 6
 - G. Salem County TDR Task Force
- VIII. Time and Place of Next Meeting
Monday, December 5, 2011 Health/Ag Bldg. – 1st Floor Auditorium
- IX. Adjourn

NEW JERSEY STATE TDR BANK BOARD

Health/Agriculture Building
(Auditorium)
Market & Warren Streets
Trenton, NJ 08625

September 19, 2011

The meeting was called to order at 10:10 a.m. by Monique Purcell, Acting Chairperson. In compliance with the "Open Public Meetings Notice", the following statement was read:

"Pursuant to N.J.S.A. 10:4-6 et seq., adequate public notice of this meeting has been provided by giving written notice of the time, date, location and, to the extent known, the agenda. At least 48 hours in advance, this notice has been posted on the public announcement board, third floor, Health/Agriculture Building, John Fitch Plaza, Trenton, NJ, mailed and/or faxed to the Newark Star Ledger, The Times of Trenton, The Camden Courier Post, and filed with the Office of the Secretary of State.

Roll call indicated the following:

Members Present

Monique Purcell, Acting Chairperson (Director, Division of Agricultural & Natural Resources)
Christopher Hughes (rep. Banking and Insurance Commissioner Thomas B. Considine)
Joy Farber, Esq. (rep. Edward J. McKenna, Jr., State Planning Commission)
Chris Jeter (rep. State Treasurer Andrew P. Sidamon-Erstoff)
James Lewis (rep. NJDOT Commissioner James S. Simpson)
Terry Caruso (rep. DEP Commissioner Robert Martin)
Gina Fischetti (rep. DCA Commissioner Lori Grifa)
Sandy Batty (rep. ANJEC Board of Trustees, President Nelson Dittmar)
Henry D. DuBois, President, State Board of Agriculture

Jason Stypinski, Deputy Attorney General

Others in Attendance: Timothy Brill, Steven Bruder, Sandy Giambrone, Bryan Lofberg, SADC/TDR Bank Board Staff; Rick Brown, Department of Environmental Protection, Ralph Siegel, Garden State Preservation Trust, Mayor Jason Verano and Twp. Planner Dave Roberts, Berkeley Township.

CHAIRPERSON'S REPORT:

Ms. Purcell noted the importance of having the State TDR Bank Board serve as a coordinating entity to address the many issues encountered during the TDR planning process. Ms. Purcell stated that the draft State Strategic Plan, scheduled to be released shortly, highlights TDR as an important tool to for its implementation.

EXECUTIVE DIRECTOR'S REPORT:

Executive Director Susan Payne was unable to attend due to a conflicting State House hearing.

MINUTES:

Ms. Purcell requested a motion for approval of the minutes from the March 7, 2011 meeting. It was moved by Mr. Lewis and seconded by Mr. Jeter. Ms. Batty and Ms. Fischetti abstained. The minutes were approved.

PUBLIC COMMENT

None at this time.

NEW BUSINESS

A. Fiscal Year 2012 Proposed Budget

Mr. Lofberg referred the Board to the TDR Administrative Budget Summary showing the FY2010 and FY2011 expenditures and proposed budget for FY2012. The FY2012 is \$125,000, the same as FY2010. Mr. Lofberg briefed the board on FY2011 expenditures and those anticipated for FY2012. It was noted that bond funds finance the administration of the TDR bank therefore unexpended funds are not defaulted to the general fund.

The FY2012 Administrative Budget was moved by Mr. DuBois and seconded by Ms. Batty. The motion was unanimously approved.

B. Planning Assistance Grants

1. General Update

Mr. Bruder provided an overview of the grant noting that sixteen (16) Planning Assistance Grants given to date.

The following are the three Planning Assistance Grants that have been completed with \$60,000 having been distributed:

- Lumberton Twp., Burlington County
- Chesterfield Twp., Burlington County
- Woolwich Twp., Gloucester County

The following ten (10) Planning Assistance Grants are considered active with \$200,000 distributed thus far:

- Hopewell Twp., Cumberland County
- Berkeley Twp., Ocean County
- Fanwood Twp., Union County
- Frankford Twp., Sussex County
- Mannington Twp., Salem County
- Ocean Twp., Ocean County

- Hillsborough Twp., Somerset County
- North Hanover Twp., Burlington County
- Mansfield Twp., Burlington County
- Jersey Twp., Hudson County

Three (3) Planning Assistance Grants are inactive:

- Montgomery Twp., Somerset County
- Prospect Park Twp., Passaic County
- Oxford Twp., Warren County

Mr. Bruder updated the Board on the Woolwich Township TDR project. At the March 2011 meeting Mayor Chila and Anthony Zapposodi, Esq. spoke to the Board of their experience with the TDR process. Woolwich Township is the only township to have adopted a TDR ordinance under the State TDR Act.

Mr. Bruder described the Woolwich TDR program as a mandatory program involving over 4,100 acres of primarily agricultural sending area and 887 acres of receiving area. There are two planned receiving areas. One is the 762 acre U.S. 322 Corridor Receiving Zone which is part of the Township's 1,696 acre Woolwich Regional Center. The second is the Auburn Road Village Receiving Area adjacent to Woolwich's Weatherby development.

If fully developed, the U.S. 322 Corridor Receiving Zone would include 100 single family homes, 1000 twin units, 500 apartments/condos and 1600 townhomes in addition to 575,000 SF of first floor retail and 2.6 million additional SF of commercial space. The estimated commercial construction cost of the receiving area portion of the Woolwich Regional Center is \$358.9 million. The Auburn Road receiving area would include: 130 single family units; 162 twin units; 210 townhomes and 60,000 – 70,000 SF of commercial space. The estimated commercial construction cost of this receiving area is \$5.9 million. When non-TDR portions of the Woolwich Regional Center are included in the build out projection it is estimated that a total of an additional 7,000,000 sq. ft. of commercial, representing approximately 5,155 new jobs, is possible in Woolwich. In all, the cost of construction of the commercial portions of this project is estimated at \$666 million.

Woolwich received Plan Endorsement in April of 2008 and passed its municipal TDR ordinance in October of that year. Aside from the economic downturn, sewer service provision has been the primary reason TDR is not yet being implemented. It is anticipated that 1.79 MGD in wastewater flow will be generated by the Woolwich Regional Center of which 1.3 MGD is needed for the receiving area. The Auburn Road Receiving Area is anticipated to generate 0.151 MGD. At the time Woolwich was given Plan Endorsement sewer service was somewhat uncertain but it was anticipated that it would be provided partially through developers agreements with the Logan Township MUA. These discussions, as well as discussions with the Gloucester County MUA, have not materialized. Woolwich is certainly part of negotiations involving the capacity available at the DuPont plant in Carneys Point, Salem County but this solution is a number of years off.

If preserved through the traditional farmland preservation program the estimated easement cost to preserve the 4,100 sending areas would be more than \$75,000,000.

Mr. Bruder noted some advancement since the last meeting. He indicated that a developer with property within the Regional Center, but not a receiving area parcel, recently purchased 60K GPD of Logan MUA capacity from a third party capacity owner. This is enough for the first phase of a 3 phase commercial project (1.4 million sf.; either side of 322 between Kings Highway and the NJ Turnpike). Discussion are also underway between Logan MUA and the developers of the Auburn Road receiving area regarding sewer provision for the project approved as a 20 year General Development Plan in December of 2010. Draft amendments to the Wastewater Management Plan for Woolwich's chapter of the County WMP were submitted to NJDEP on September 6th.

Mr. Bruder stated that the Township continues to have difficulty finding a long term sewer service solution for their receiving area and regional center.

2. Grant Agreement Extension

A. Mansfield Township, Burlington County

The Board received a request from Mansfield Township for an 8 month extension of its Planning Assistance Grant as it continues to work toward TDR establishment. Mansfield is attempting to use a mandatory TDR scenario to redirect remaining growth potential on agricultural lands in the Township to receiving areas in proximity to the Village of Columbus. The Township is proceeding with TDR under the Burlington County TDR Demonstration Act with assistance from the Burlington County Bridge Commission.

To date, Mansfield has identified proposed sending and receiving areas and received positive feedback on its TDR scenario in an initial draft Real Estate Market Analysis (REMA). A second REMA draft is anticipated shortly. The Township has completed a draft conceptual stormwater management plan for the Columbus receiving area as well as several draft environmental restriction ordinances required by the NJDEP as part of its review of the Township's TDR program, Wastewater Management Plan and proposed Center boundaries. The Township is awaiting NJDEP's review and comment.

It was moved by Mr. Dubois and seconded by Ms. Batty to approve the grant extension for Mansfield Township. The motion was unanimously approved.

C. TDR Implementation Discussion

1. Berkeley Township, Ocean County

Mr. Bruder updated the Board on the Berkeley Township TDR project. Planner Dave Roberts and Mayor Jason Varano were present to discuss their experience and answer questions from the Board.

Berkeley is attempting to transfer the development rights from more than 231 privately owned acres of undeveloped wooded parcels within 5 sending areas comprising more than 840 acres to redevelop four underutilized commercial and industrial areas along and in proximity to State Highway 9. The Township hopes to create several areas of mixed-use development using TDR to provide residential, industrial and commercial bonus density.

The rights to be transferred would be (1) the rights to develop single-family homes on lots ranging in size from 15,000 SF to 3 acres on 1915 parcels and (2) the conversion to residential

development rights of current rights to construct commercial space at densities of 0.3 FAR on 58 parcels in comparatively under-developed commercial areas.

Four receiving areas are proposed which in total will accommodate 1543 housing units generated by TDR and 1540 by-right units. There will also be 260,000 SF of light industrial space and 150,000 SF of commercial space allowable through credit purchase and 147,000 SF of commercial space by-right.

TDR was required by the Office of Smart Growth (OSG) as part of their petition for Plan Endorsement. The Township has been working with OSG on and off since its pre-petition meeting in August of 2004. To date, Berkeley has worked with Bank Board staff on several versions of their Transfer Element, Capital Improvement Plan and Utility Service Plan. A 2010 draft of the REMA supports the proposed transfer scheme and will be updated as the other elements move toward completion. The Township has also recently reengaged with the Office of Planning Advocacy to complete the Plan Endorsement process, a requirement prior to adoption of the municipal TDR ordinance.

D. New Jersey TDR Statewide Policy Task Force Update

Mr. Bruder provided a brief update on implementation of the recommendations from the New Jersey Statewide Policy Task Force report, "Realizing the Promise: Transfer of Development Rights in New Jersey", dated August, 2010. Bank staff has been working very closely with New Jersey Future on amendments to Municipal Land Use Law to explicitly authorize use of mandatory clustering and non-contiguous clustering techniques, as recommended in the report. It was decided that recommended changes to the State TDR Act would be pursued following these MLUL amendments. These amendments are being prepared for committee review and legislative proposal. A sponsor is being sought.

E. Highlands TDR Update

Mr. Bruder updated the Board on the status of the Highlands Development Credit program. At this time, during the initial phase of the Highlands TDR Program, the Highlands Council is working to establish voluntary receiving zones to support private purchase of HDCs. In the meantime the HDC Bank created the Initial Purchase Program to allow willing landowners in the Highlands Preservation Area to apply for an allocation of HDCs and an HDC certificate and, if eligible, to deed restrict their land from future development in exchange for funding from the HDC Bank.

The HDC Bank considers purchasing HDCs from property owners that satisfy the requirements of one of the following categories:

1. The property owner is experiencing extenuating financial circumstances, including but not limited to imminent bankruptcy, extraordinary medical expenses, or loss of job;
2. A proposed project on the property just missed qualifying for Exemption #3 under the Highlands Act;
3. A proposed project on the property qualified for Exemption #3, but that exemption has since expired;

4. The property is located within the Special Environmental Zone of the Highlands Preservation Area as designated by the Highlands Council in the Regional Master Plan; or
5. The property is located within a High Value Agricultural Priority Area as designated by the Highlands Council in the Regional Master Plan.

The HDC Bank recently announced notice of the fourth round of acquisitions. For the fourth round, a property owner must have applied for participation in a preservation program administered by the State or a local government unit (together "Public Agency") no earlier than August 10, 2004, and which application was rejected by the appropriate Public Agency or was deemed ineligible for participation based upon the requisite program's eligibility criteria.

The TDR Initial Purchase Program was made possible by the appropriation of \$10 million from the State TDR Bank in September 2008 through Executive Order 114.

To date:

- 72 applications for HDC allocation received
- 45 applicants received allocation determinations
- 35 applicants received a HDC allocation (800.5 HDCs)
- 10 did not receive allocation due to lack of Pre-Highlands development potential
- 27 pending because they did not qualify under a priority category for processing
- The HDC bank received \$2,616,000 for Rounds 1 & 2 and requested \$4,193,000 for Round Three leaving \$3,191,000 of the \$10 million remaining.
- HDC Bank resolution of support for an additional \$10 million executed July 28, 2011.
- Notice of 4th and final round given.
- HDC has made offers to 9 property owners in 1st and 2nd round & 5 in 3rd. Closed on 4, still negotiating with 7. 3 did not accept.

F. Pinelands Development Credit Bank Administration

Mr. Bruder updated the Board on the status of the Pinelands Development Credit program. To date there has been approximately 6000 development rights retired equating to greater than 50,000 acres preserved, PDC values are now averaging \$10,500/right/quarter credit.

In May the Executive Director of the PDC Bank retired resulting in discussion about the appropriate location for administration of the Bank. The PDC Bank is currently housed with the Department of Treasury. In the packet is an MOU between the NJ Pinelands Commission and the PDC Bank Board that was executed Sept. 7th. According to the MOU the Pinelands Commission is responsible for operation and administration however the PDC Bank Board remains active and continues to govern actions of the Board

G. Salem County TDR Task Force

Mr. Brill provided the Board with an update on the status of the Salem County TDR Task Force, a three year planning study initiated to discuss a regional TDR alternative in Salem County. This

initiative was facilitated by the Delaware Valley Regional Planning Commission with funding from the William Penn Foundation.

Mr. Brill referred the Board to the report "Assessing the Potential for a Regional Transfer of Development Rights Program in Salem County, N.J." The report presents baseline information for the regional TDR discussion as well as the preliminary recommendations of the Task Force.

Mr. Brill stated that there were 74,000 acres of buildable land identified in Salem County's rural zoning districts in the ten towns that are predominately agricultural. This translates to an estimated build out of 11,000 dwelling units when the NJDEP's nitrate dilution standards are applied.

The report found that areas with potential to serve as receiving areas are primarily in the five municipalities along the Delaware River Corridor. Additional work, involving a more thorough real estate market and infrastructure availability analysis, is necessary to determine receiving area locations and viability.

Mr. Brill noted continued interest by municipal representatives in discussing the potential for TDR. Key components that the Task Force identified to make TDR possible include streamlining the TDR planning process, funding for planning and implementation and a regional tax sharing mechanism.

TIME AND PLACE OF NEXT MEETING:

To Be Determined

It was moved by Ms. Batty and seconded by Mr. DuBois to adjourn the meeting at 11:58 a.m. The motion was approved.

Respectively Submitted,



Susan E. Payne
Executive Director
State Agriculture Development Committee