

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of October 31, 2005

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Elizabeth McKenzie
Richard Maser
Michael Amorosa
Joseph Doyle
Marge Della Vecchia
Valerie Hrabal

DCA Staff:

Amy Fenwick Frank
Mary Ellen Handelman
John Lago

Guests:

Kenneth Reynolds	New Jersey Builders Association
Tim Kernan	New Jersey Society of Municipal Engineers
Tom Harbert	ADS
Sandra Blick	Office of Policy and Planning, New Jersey Department of Environmental Protection
Lawrence Baier	Division of Watershed Management, New Jersey Department of Environmental Protection

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 1:42 p.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the May 26, 2005 meeting. There were none. Ms. Valerie Hrabal made a motion to approve the minutes, which was seconded by Mr. Michael Amorosa. All were in favor except Mr. Richard Maser, who abstained due to his absence from that meeting.

WELCOME TO NEW BOARD MEMBERS

Chairman Kirkpatrick welcomed two new Board members. Ms. Marge Della Vecchia is filling the seat left vacant by Mr. Peter Reinhart as a representative of the New Jersey Council on Affordable Housing. She is the Executive Director of the New Jersey Housing and Mortgage Finance Agency. Mr. Joseph E. Doyle, Jr. is filling the seat left vacant by Mr. Frank Doyle as a representative of the New Jersey Planning Officials. He is this organization's Executive Director.

DEP PRESENTATION

Nonstructural Stormwater Management Strategies:

Mr. Lawrence Baier, Director of the Division of Watershed Management, and Ms. Sandra Blick of the Office of Policy and Planning, both of the New Jersey Department of Environmental Protection (DEP), gave a presentation to the Board on a proposed review tool to evaluate nonstructural stormwater management strategies. Mr. Baier told the

Board that the DEP's biggest criticism in regard to its 2004 stormwater management rules has been the nonstructural stormwater management practices. The rules lack guidance on what these practices really are. Staff at the DEP has been working to develop a nonstructural management point system. This is a pass, not a fail, system; it is intended to be used to determine whether nonstructural stormwater management measures have been used "to the maximum extent practical." If a developer shows, under the new point system, that the proposed development has enough points compared to existing conditions, then the project meets all nonstructural requirements in the new DEP rules. The nonstructural point system compares preconditions and post conditions for a proposed development, and gives points for various nonstructural considerations. The purpose of the points is to make sure that, after development, the site remains as close as is possible hydrologically to pre-development conditions. The point system is weighted to take into consideration the soil type and the planning area, as designated by the State Development and Redevelopment Plan. It also expects large sites to do more nonstructurally because more land is available for such strategies. It gives points for certain nonstructural strategies such as grass swales, efforts to cluster and limit impervious coverage, and construction practices that reduce soil compaction. All of this is in an effort to promote nonstructural stormwater management measures.

Ms. Elizabeth McKenzie asked whether there are any factors for Planning Areas 3, 4, and 5; Ms. Blick said "no." Ms. McKenzie said that the DEP needs to allow more of a break in these areas in order to comply with the State Plan.

Ms. Blick noted that there are three categories of impervious: connected, large disconnection, and small disconnection. The wetlands is included under environmentally regulated areas.

Chairman Kirkpatrick asked what is meant by "planted woods." Mr. Baier responded that the DEP is trying to protect existing wooded areas.

Mr. Amorosa asked whether farmers are being regulated under these rules. The right-to-farm issue is not addressed here and the DEP must make it clear that this system does not affect farmers. He felt that this system must state it is for new development. Mr. Baier replied that the stormwater management regulations do not have authority over farmland now and will not with this new system.

Mr. Amorosa also raised the case of impervious surface added as part of traffic safety improvements, such as adding a turning lane. He said he does not agree taxpayers should have to buy land to comply with these regulations in such cases. Special consideration is needed for linear development, such as road projects. Such development does not have a lot of land for nonstructural stormwater management. He stressed that traffic safety is important, too, and should not have to be delayed or made more difficult because of DEP regulations. Mr. Baier noted how developers end up in protracted negotiations. The system cannot appropriately be applied to road

improvement projects for highways, but can be applied to internal roads in a proposed development.

Ms. McKenzie pointed out how various State regulations pull developers in different directions. When municipalities follow the State Plan and affordable housing mandates, they may not quite meet the impervious coverage regulations. There needs to be a balance of public-interest factors; no one factor should be most important. Redevelopment ought to be favored.

Mr. William Connolly, Vice-Chair of the Board, commented that the point system is a good idea. He added, however, that there may be some projects and areas where it will not work as intended.

Ms. McKenzie said, in determining impact, the bias is that less is better than more for impervious coverage. There are some places where there will be more runoff, but perhaps it can be made up in other areas.

Noting that some types of projects need special consideration, Ms. McKenzie said there should be a class of areas that will presumptively obtain waivers. Mr. Baier pointed out that the target for Planning Area 1 would be much lower than that for Planning Area 5.

Mr. Connolly stated that the center designation should not be the only or the primary determining factor. The State must encourage good projects, not wait for good zoning to be adopted. There are approximately 600 centers, but only 100 have been designated to date. Objective standards are needed to describe the projects and kind of growth that should be encouraged.

Ms. Hrabal warned that this system will impact development strategies. Municipalities will use it as a zoning tool rather than as a pass.

Ms. Della Vecchia asked about the treatment of Planning Areas 1 and 2. Planning Area 1 comprises urban centers. Planning Area 2 is suburban and generally developed areas. Her suggestions were to consider lowering the bar for Planning Area 2. For Planning Areas 1 and 2, give consideration to some more reasonable, in-between standards.

Chairman Kirkpatrick said he would like to discuss this more with the DEP, but was not sure that the Board's meeting is the venue. Mr. Baier thanked him for the opportunity to make this presentation to the Board as he wanted to give the Board the opportunity to comment on the point system. He said that the DEP's Best Management Practices Committee's next meeting is December 7th. He encouraged the Board members to give him any feedback they have. Mr. Baier offered the Excel package to the Board members for use in the field to see how it works. He explained that the DEP is testing the point system and would like more projects included in the testing phase to calibrate this review tool.

Chairman Kirkpatrick expressed concern over the intent of this system in deciding whether it complies with the intent and purposes of the Site Improvement Act. Mr. Connolly felt that the system is a good step in the direction of predictability and uniformity.

Ms. Hrabal noted that Planning Area 5 needs more work or more test cases in order to refine it. She mentioned that she had tried the point system for two projects in this planning area and both failed.

Ms. McKenzie noted that there is a separation between residential and commercial projects.

Mr. Connolly felt that, ideally, nonstructural stormwater management should be done at the municipal level, not project by project.

Chairman Kirkpatrick said that the reason there are not a lot of nonstructural devices is because of maintenance. If this responsibility is left in the hands of a homeowners association, it may not get done; the responsibility will then fall on the municipality, which may not be able to handle it.

Mr. Amorosa pointed out that swales need to be backed up. Anything that is man-created needs to be maintained.

COMMITTEE REPORTS

De Minimis Exceptions and Agreements to Exceed the Standards Committee:

Ms. McKenzie reported on the results of a teleconference of the *De Minimis* Exceptions and Agreements to Exceed the Standards Committee, as laid out in its memorandum of September 15th, included in the meeting packet. She suggested that five or more *de minimis* exceptions or agreements to exceed for the same reason should become an application for a special area standard. She noted that there are some towns that have hit the five-times mark in using public safety as a reason for agreements to exceed. Mr. Connolly said that, in the long run, the DCA collects data so that changes to the rule can be made where appropriate, and abuses of the system can be recognized and stopped. Ms. Hrabal said she would like to see a clarification drafted on the safety reasons that cannot be used for these deviations from the standards. Staff will draft a letter including the National Fire Protection Association standard for street width and send it to Ms. Hrabal for review.

OLD BUSINESS

Status of Proposed Amendments to the Residential Site Improvement Standards:
Ms. Amy Fenwick Frank gave a status report on the annual amendments proposal for the RSIS. The proposal appeared in the October 17th issue of the New Jersey Register. There is a 60-day comment period, so comments are due by December 17th.

NEW BUSINESS

Resolution for Former Board Member Frank Doyle:
Chairman Kirkpatrick read the Board resolution memorializing Mr. Doyle's service to the Board as a charter member. *Ms. McKenzie made a motion to approve, which was seconded by Mr. Connolly; all were in favor.*

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Mr. Connolly and seconded by Ms. McKenzie; all were in favor. The meeting was adjourned at 3:28 p.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of May 26, 2005

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Leslie McGowan
Elizabeth McKenzie
Michael Amorosa
Valerie Hrabal
Phyllis Marchand

DCA Staff:

Amy Fenwick Frank
Mary Ellen Handelman
John Lago

Guests:

Kenneth Reynolds	New Jersey Builders Association
Tim Kernan	New Jersey Society of Municipal Engineers
Susan Weber	Bureau of Statewide Planning, New Jersey
	Department of Transportation

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:44 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the March 24, 2005 meeting; there were none. Mayor Phyllis Marchand made a motion to approve the minutes, which was seconded by Ms. Valerie Hrabal; all were in favor except Ms. Leslie McGowan, who was absent from that meeting.

COMMITTEE REPORTS

Stormwater Management Standards Committee:

Mr. Michael Amorosa reported on a meeting of the Stormwater Management Standards Committee held on March 24th. Discussion focused on the use of new rainfall data for stormwater calculations. Also discussed was the use of the Delmarva hydrograph in runoff calculations for appropriate areas in southern New Jersey. Reviewers at the New Jersey Department of Environmental Protection (DEP) have not been consistent in when they have required use of this hydrograph. The agency was going to have a September 2005 deadline for its use. The Natural Resources Conservation Service (NRCS) in the United States Department of Agriculture, whose runoff methods use the hydrograph, leaves its application up to the design engineer, who must make sure the site is suitable. Technical background material is available from the NRCS to help design engineers determine when and where the Delmarva hydrograph should be used. Mr. Amorosa noted that Mr. Hunter Birckhead of the State Soil Conservation Service in the New Jersey Department of Agriculture is expected to report back to the Board regarding the applicability of the Delmarva unit hydrograph. He asked staff to contact Mr. Birckhead as a reminder.

OLD BUSINESS

A. SIAB Member Conflict-of-Interest Issue:

Mr. Connolly stated that the rules under which this Board was formed allow what he calls a permitted conflict of interest. When the subject matter of a board's purview is technical in nature, the people brought together to form it are working experts in the various fields that the subject matter affects. Each member, therefore, has a professional interest in the board. The board is comprised of individuals with divergent views so that it is balanced and no one is over-represented; none have a majority. (The interest breakdown is one-third, one-third, one-third, usually.) Likewise, this Board is balanced, with each of its members bringing different interests to the Board. That is the theory. There is a conflict. What does that mean for the members in everyday matters? The answer is that only the body speaks for the Board. You cannot say, "You have to listen to me because I am a member of the Board." It is not right, in the course of testimony, to trade on one's position by saying that one's testimony has to be given more weight because that individual serves on the Board. Ms. McKenzie felt that was very well said and Mayor Marchand agreed.

Ms. Hrabal asked whether it is necessary for Board members to disclose their position on the Board when giving testimony, or whether they should keep quiet on that information. Mr. Connolly told her to put it in her curriculum vitae and leave it there. Chairman Kirkpatrick expressed concern with the problem of when a Board member's reputation precedes him. Mr. Connolly told him to ask his attorney not to bring his position up. A Board member is not supposed to trade in private business on his public service. Ms. Hrabal confirmed that a Board member can give his opinion, but the municipality makes the interpretation. Mr. Connolly pointed out that some of the members of the Board represent municipalities.

B. *De Minimis* Exceptions and Agreements to Exceed:

Referring to the log on *de minimis* exceptions and agreements to exceed in the meeting packet, Ms. Hrabal noted that a couple of these have been received this month. Chairman Kirkpatrick pointed out that many times the reason given for such deviations from the Residential Site Improvement Standards (RSIS) is safety and that the town wanted it. He said that Ms. Hrabal feels these are not good reasons. Ms. McKenzie explained that developers find it is easier to go along with what the town wants in order to get the development built. Chairman Kirkpatrick said that the reason of safety is not a good reason. Many of these *de minimis* exceptions should really have been agreements to exceed the standards. Ms. McGowan felt that, considering the State's 566 municipalities, the number of deviations received by the Board does not seem like a lot. This means that most of the municipalities are following the standards without deviations. Ms. McKenzie wondered who suggests exceeding the standards for the agreements that are received. Ms. Hrabal noted that many resolutions indicate the municipality. Many times, it is the fire company.

Mr. Amorosa noted that the Board receives notices of *de minimis* exceptions/agreements to exceed from a certain few towns often. Mr. Connolly pointed out that the Board did not place any limits at all on agreements to exceed the standards or *de minimis* exceptions. But, the Board stipulated in the standards that notification be sent to the Department of Community Affairs (DCA). The Board left the rule flexible in this regard because sometimes the developer does want to exceed. The Board could decide at some point to put limitations on exceeding. Ms. McKenzie asked whether it would be possible to allow the exceeding, but to make it more of a special case. She felt that more of a reason than safety is needed. For example, it was pointed out that a narrower street will be built for safety purposes because it is a traffic-calming measure. Many of the agreements to exceed, on the other hand, are for widening streets for safety purposes. Mr. Connolly replied that the Board does not have any operational authority to do so. The only way the Board can make the RSIS tougher in this regard is through changing the rules. Chairman Kirkpatrick asked whether the Board should modify the regulations. A committee can be formed to work with staff on this. The agreement to exceed was supposed to be suggested by the developer, not the municipality. Ms. McKenzie posed the question of whether it would be better if those seeking an agreement had to go through a different process – what if they had to get permission?

Chairman Kirkpatrick called for the formation of a new committee to deal with this issue. Specifically, the committee is to determine statistically whether the concerns are valid, and whether to recommend changing the rules governing *de minimis* exceptions and agreements to exceed. The committee was appointed as follows:

De Minimis Exceptions and Agreements to Exceed the Standards Committee

Valerie Hrabal
Elizabeth McKenzie
Leslie McGowan

Ms. McKenzie expressed interest in elevating agreements to exceed to how waivers are dealt with. Ms. McGowan did not agree with this; statistically, she does not feel there is a need. Mr. Amorosa suggested finding out how many applications were processed in the State. There are 32 actions in these two documents today, dating from October 28, 2004 through May 12, 2005. Chairman Kirkpatrick pointed out there may be other actions that are not reported.

Mr. Tim Kernan of the New Jersey Society of Municipal Engineers (NJSME) stated that he is taking Mr. Robert Schreiber's place in attending these Board meetings, as Mr. Schreiber has resigned. He asked for clarification of the issue under discussion, which the Chairman addressed.

Ms. McGowan was under the impression that the Board was compiling statistics on these variations for the Board's information, and for the purposes of noting what is

happening out in the field and amending the standards where reasonable. The fire officials must be told that the rules cannot be changed for emergency vehicle access purposes, as this issue has already been addressed through solicitation of comments from major fire protection organizations when the rules were first developed. However, Mr. Connolly commented that the rules can be changed and that the Board has allowed municipalities to vary the standards. Mayor Marchand noted that, with the new stormwater management laws, there may be a diminution in the number of instances where wider streets are sought.

Mr. Kernan said that most times a developer might not have a good definition of a street he is proposing. He asked how the Board determines from statistics, if the concerns are varied, whether there should be a recommendation to make changes to *de minimis* exceptions and agreements to exceed.

Ms. McGowan said she regards the reports on *de minimis* exceptions and agreements to exceed as either exposing items that are repeatedly granted/agreed to that may need to be redressed in the standards, or perhaps showing a need for officials to be educated in the RSIS. Ms. McKenzie added that the standards may be inadequate in some areas; this could be one of the problems, too. Chairman Kirkpatrick stated that municipal board members do not receive training in the use of the RSIS. He suggested that maybe the NJSME could offer such training. Ms. McGowan commented that the Board cannot expect 100 percent compliance with the standards.

C. Code Change Proposals:

Ms. Frank laid out the issues on the code changes before the Board. Chairman Kirkpatrick noted that the question on centerline offset is the same problem when the intersections are on the same side of the street. The national standards do not make that differentiation.

The code change proposal submitted by Mr. Charles Blumeling was considered by the Board. Mr. Amorosa noted that requirements for surveys are covered by other rules. He felt that this Board should not get involved. *He made a motion to deny the code change proposal, which was seconded by Ms. McGowan; all were in favor.*

The Board next considered DCA staff suggestions for code changes outlined in a memorandum dated March 24th: *Mr. Amorosa made a motion to approve both items listed in the memo, which was seconded by Ms. Hrabal. Separate votes were taken. All were in favor of i, which amends Table 4.2 by deleting a sentence to eliminate a conflict in the language. All were in favor of ii, which amends N.J.A.C. 5:21-4.20(a) to delete the reference to horizontal curves and amends the title of Table 4.6 by adding "curve" as a design criterion.*

Mr. Amorosa made a motion to approve the clarification to N.J.A.C. 5:21-4.19(b)2, which deals with centerline offsets at intersections, and which would allow for intersection offsets for both opposite side and same side of the street configurations. The motion was seconded by Ms. McGowan; all were in favor.

D. High-Density Polyethylene Storm Drain Pipe:

Mr. Amorosa spoke about polyethylene pipe. The Board discussed whether there should be an upper limit on the diameter of plastic pipe for storm drains. The standards allow design engineers to choose among several types of material. Those are reinforced concrete, ductile iron, or corrugated polyethylene (plastic) pipe. Most of the referenced sources in the standards place a 36-inch limit on the diameter of plastic pipe, but the manufacturer produces larger diameters. Both the New Jersey Department of Transportation (DOT) and the Pennsylvania Department of Transportation have allowed larger diameter plastic pipe on state projects. Mr. Amorosa noted that there is an e-mail from Ms. Susan Weber of the DOT indicating the DOT is still approving its use on a case-by-case basis. Chairman Kirkpatrick requested that, before the Board approves larger-diameter plastic pipe, it receive information on the installation and performance of these products from the plastic pipe manufacturer. Mr. Amorosa noted that the companies that expressed an interest never submitted a code change proposal.

NEW BUSINESS

There was no new business before the Board.

INFORMATION

A. Municipal Clerks Letters for RSIS:

Chairman Kirkpatrick referred to the municipal clerks letter in the meeting packet, which was included as the cover letter in the distribution of the RSIS. He noted that a paragraph has been inserted highlighting the Board's acceptance of code change proposals for consideration each year.

B. Changes to Board Membership:

Chairman Kirkpatrick announced that Mr. Frank Doyle has retired from the New Jersey Planning Officials and can no longer represent that organization on the Board. This is one of the vacancies on the Board, the other is for the New Jersey Council on Affordable Housing. Staff will pursue candidates for these two open seats.

Mr. Connolly also announced that Mr. Charles Richman is now the Deputy Commissioner of the DCA. Chairman Kirkpatrick said that the Board wishes him well

in his new position. (Note: Mr. Richman subsequently was appointed Acting Commissioner.)

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Mayor Marchand and seconded by Mr. Amorosa; all were in favor. The meeting was adjourned at 10:45 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of March 24, 2005

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
Elizabeth McKenzie
Michael Amorosa
Frank Doyle
Valerie Hrabal
Thomas Olenik
Phyllis Marchand

DCA Staff:

Amy Fenwick Frank
Mary Ellen Handelman
John Lago

Guests:

Kenneth Reynolds	New Jersey Builders Association
Hunter Birckhead	New Jersey Department of Agriculture
Susan Weber	Bureau of Statewide Planning, New Jersey
	Department of Transportation

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:50 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the October 28, 2004 meeting. There were none. *Mr. Frank Doyle made a motion to approve the minutes, which was seconded by Ms. Valerie Hrabal; all were in favor.*

OLD BUSINESS

A. Conflict of Interest:

Chairman Kirkpatrick stated that he is still interested in resolving the conflict-of-interest issue that Board members may encounter in their professional occupations. Ms. Amy Fenwick Frank advised the Board members that Mr. William Connolly regards this issue as asked and answered. The Board is comprised of practitioners and that is the only way to make sense of the statute. She suggested the Board table this discussion for now, and resume when Mr. Connolly and Deputy Commissioner Charles Richman are present. Chairman Kirkpatrick asked that this item be put on the next meeting's agenda for that purpose.

B. Chair of the Board:

Chairman Kirkpatrick offered his seat up to anyone who would be interested in serving the Board as Chair. Due to the other Board members' satisfaction with the Chairman's outstanding leadership and performance, no one came forward. *A motion was made by Mr. Amorosa and seconded by Mayor Phyllis Marchand that Mr. Kirkpatrick continue serving the Board in the capacity of Chair.*

C. Highlands Water Protection and Planning Council:

Ms. Frank stated that the Department of Community Affairs (DCA) had a meeting with representatives of the New Jersey Department of Environmental Protection (DEP) and the New Jersey Highlands Council on March 11, 2005. The Council representatives were asked if they need any special provisions in the Residential Site Improvement Standards (RSIS). The DCA would be willing to entertain any concerns. The Council representatives said that they did not come to the table with anything specific, but they will advise the DCA if any issues arise. With the new stormwater rules, the DEP will be looking at the total sum of impervious surface. It was predicted that, when this happens, developers will be building narrower streets and no sidewalks so the bigger houses can continue to be built. Ms. McKenzie did not feel that anything needs to be done ahead of time. Ms. Hrabal suggested that a section on the Highlands be added to the RSIS, as was done for the Pinelands. Ms. Frank stated that the RSIS does apply in the Highlands.

Concerned about special area standards that are in place, Mr. Amorosa asked about the status of the special area standards for the Township of Harding in Morris County. It was noted that the DEP will be meeting with Harding Township to discuss stormwater. He also noted that the Raritan River Watershed is part of Harding and expressed concern about this.

NEW BUSINESS

Code Change Proposals:

Ms. Frank told the Board members that the only code change proposal that was received was from Mr. Charles Blumeling on behalf of the Garden State Land Surveyors Alliance. She included a cover memorandum on the submission that explains Mr. Blumeling's concerns. Another memo was included in the meeting packet with two staff suggestions for code changes that basically will bring more clarity to the standards. Ms. Hrabal felt that Mr. Blumeling's code change proposal is a State Board of Professional Engineers and Land Surveyors' issue.

Chairman Kirkpatrick asked whether staff could provide a list of *de minimis* exceptions received to date. Ms. Hrabal noted that most exceptions submitted to the DCA are for: (1) emergency access for cul-de-sacs, (2) road widths, and (3) cul-de-sac length. Ms. McKenzie expressed concern over whether the centerline spacing for intersections would apply to streets entering on the same side of the street. Chairman Kirkpatrick responded that the RSIS contains a standard. It is for opposite sides of the street, but the Board has interpreted it as being for

both (same side and opposite side) because the hazard is the same. He asked staff to check into whether a change is needed to reflect this.

Responding to a question from Mr. Amorosa, Ms. Frank outlined the time frame on adopting code changes.

Some discussion ensued on an anticipated code change proposal that was not submitted: the use of high-density polyethylene pipe for storm drains. Chairman Kirkpatrick noted that, when this code change was discussed in the past, representatives of the plastic pipe industry testified this type of pipe is approved by the DOT; however, they had meant the Pennsylvania DOT. As a representative of the New Jersey Department of Transportation (NJDOT), Ms. Susan Weber, was in attendance at the meeting, the Chairman asked her if her agency would approve the use of 48-inch diameter plastic pipe instead of 36-inch diameter. She said she will look into this and report back.

Noting the single code change proposal received for the year from the public, Chairman Kirkpatrick said that the Board does not advertise to the users of the RSIS that it accepts such proposals. It is included in the standards at N.J.A.C. 5:21-3.8 and a code change proposal form is contained in each copy of the RSIS. But, perhaps more needs to be done to call attention to this provision in the code. Ms. Hrabal suggested including a letter when mailing the new edition of the RSIS advising that changes can be suggested by planning officials, engineers, developers, etc.

Chairman Kirkpatrick pointed out that many of the planning boards he deals with are more and more slipping back to the old ways, and not following the rules of the RSIS. Now, more regulation is being put in place with the DEP approving new rules that residential standards will be different from commercial for stormwater. Ms. McKenzie said that standards for commercial stormwater structures can be included in a municipal ordinance, but not for residential. She wondered whether the DEP will approve stormwater management regulations for towns that are more strict than the RSIS. Chairman Kirkpatrick replied that he advises municipalities they do not have to change stormwater management regulations, just follow what they would do for residential and apply it to commercial. Mayor Marchand stated that the Township of Princeton's big issue right now is to enforce the new DEP regulations. Ms. Hrabal said that she does not know whether any of the towns are doing this. Chairman Kirkpatrick responded that, if a municipality is getting money from the DEP, the funds for 2005 will not be given to the municipality if it does not have its ordinance completed by April. Mr. Amorosa said that Somerset County developed a template which was given to all of its municipalities. Ms. Hrabal pointed out that the counties have to review

- 5 the municipal stormwater ordinances first. Mr. Amorosa told her that the counties do a review to ensure that compliance is included; they do not look at it any closer.

Ms. Frank mentioned that Ms. Sandy Blick of the DEP will be going on leave shortly and will be replaced by Mr. Jay Springer for the time she is out. The DCA is coordinating with DEP staff. What the Board adopted in February is what the towns must do.

INFORMATION

A. Adoption of the Amendments to the Residential Site Improvement Standards:

Ms. Frank reported that the adoption of the RSIS appeared in the February 7th issue of the New Jersey Register. There is a six-month grace period for compliance, except for the DEP rules; therefore, municipalities must comply with the balance of the amendments beginning August 7th.

Ms. Hrabal asked whether a town can grant a *de minimis* exception for stormwater now. Ms. Frank replied that this has been discussed between the DCA and the DEP. The DCA's response is that towns can grant *de minimis* exceptions. Ms. Blick has advised the DCA that a municipality must have a mitigation plan in place.

B. Stormwater Management Standards Committee Meeting:

Ms. Hrabal said that the Stormwater Management Standards Committee meeting to follow today's Board meeting will involve use of the new Natural Resources Conservation Service 24-hour rainfall figures and the Delmarva Unit hydrograph.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Ms. Hrabal and seconded by Ms. McKenzie; all were in favor. The meeting was adjourned at 10:43 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of October 28, 2004

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
Leslie McGowan
Elizabeth McKenzie
Michael Amorosa
Frank Doyle
Valerie Hrabal
Phyllis Marchand

DCA Staff:

Leslie Lefkowitz, DAG
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Melinda Reisner

Guests:

Sandra Blick

Kenneth Reynolds
Susan M. Weber

Division of Watershed Management,
New Jersey Department of
Environmental Protection
New Jersey Builders Association
Bureau of Statewide Planning, New
Jersey Department of
Transportation

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:45 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

PUBLIC HEARING

Proposed Amendments to the Residential Site Improvement Standards: The public hearing was opened and closed at 9:46 a.m. No one from the public came forward to testify and there were no comments from the Board members on the Residential Site Improvement Standards (RSIS) proposal.

Ms. Amy Fenwick Frank noted that public comments may still be submitted until November 6th; this is the advertised end of the comment period on the proposed amendments as listed in the New Jersey Register. Mr. Kenneth Reynolds of the New Jersey Builders Association stated that his organization intends to submit comments, but has not completed its review as yet.

As it will be impracticable to hold the next Board meeting on the reserved date in November, which is during the week when the New Jersey State League of Municipalities is holding its annual conference in Atlantic City, Chairman Kirkpatrick announced that the next meeting will be held on December 16th, at which time the Board will have received and addressed all comments, and can vote on the proposal.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the May 27, 2004 meeting. There were none. *Mr. Frank Doyle made a motion to approve the minutes, which was seconded by Ms. Valerie Hrabal; all were in favor except Mayor Phyllis Marchand, who abstained due to her absence from that meeting.*

OLD BUSINESS

Conflict of Interest:

Chairman Kirkpatrick told the Board members that he is still interested in pursuing the conflict-of-interest issue. To give some background to those present, he briefly recounted the history of this agenda item. The Board had asked the DAG's opinion as to whether the members could continue to practice their respective professions as well as serve on the Board. An informal opinion was given by then Deputy Attorney General Keith Costill that no conflict of interest exists, as the members' professions were the selection criteria used when the Board was formed, pursuant to the Site Improvement Act.

Ms. Frank related the position of Department of Community Affairs (DCA) Assistant Commissioner Charles Richman and Mr. William Connolly. They feel that to say a Board member cannot perform in his practice would be a disregard of the legislation. The Board was meant to be comprised of practitioners. DAG Costill did deliver this as an informal opinion. Mr. Leslie Lefkowitz, Deputy Attorney General to the Board, said that he does not disagree with DAG Costill. It appears there is no conflict in the simple fact that a member simultaneously serves on the Board as well as actively engages in his professional endeavors.

Ms. Elizabeth McKenzie said, if a member avers his opinion is more valid because he sits on the Board, that would be wrong. The Board members must all be careful not to appear as if their opinion ends all arguments. Individually, members do not represent the Board. She added that she will continue to humbly do her work without advertising her position on the Board. If there is a question that comes up on the RSIS, she will continue to go through DCA staff – the route that anyone else would use to seek guidance.

NEW BUSINESS

A. Discussion on RSIS Interpretation and Guidance Letters by DCA Staff:

Chairman Kirkpatrick stated that letters received by the DCA seeking guidance and interpretation on RSIS issues should be reviewed by a committee chair according to the subject it deals with. Currently, the letters are drafted by staff and are reviewed and approved by him. The staff assigned to draft responses is Ms. Melinda Reisner; it was previously done by Mr. Michael Baier. Chairman Kirkpatrick said he suspects that only 50 percent of the letters are being read by the Board members. It is impractical to bring each letter before the Board.

The ending paragraph of each letter advises the reader that the interpretation is not binding on anyone. Ms. Hrabal pointed out that an interpretation is not binding because the Board does not have such authority. Chairman Kirkpatrick encouraged the other Board members to read the letters and responses, and to let him know if they disagree.

B. Discussion on Unacceptable Reasons for Agreements to Exceed the Standards:

Chairman Kirkpatrick said that *de minimis* exceptions need to be reported by municipalities, along with the reasons for which they are being granted. Agreements to exceed the standards were included in the rules to prevent municipalities from requiring too much from developers. He is unsure whether this is being achieved in actual practice. He said he would like to include a standard form in the book for *de minimis* exceptions and agreements to exceed the RSIS.

Ms. Hrabal noted a couple of typical agreements to exceed: increasing emergency access from 24 to 30 feet and increasing road width. These are virtually every agreement to exceed that is submitted. Mr. Michael Amorosa commented that the last time Mr. Baier had reported on these, he had tallied an average of 37 agreements to exceed per year. Ms. Reisner stated that there have been 13 since June of this year and gave a breakdown. About 50 percent were related to cul-de-sac radius and safety.

Mr. Amorosa noted that this issue had been addressed at a Streets and Parking Standards Committee meeting. The Committee had reported to the Board that it found no abuse of the rule. Chairman Kirkpatrick stated that, when enough of such similar types of requests to deviate from the standards come in, the Board must

determine whether the regulations should be changed. Mr. Amorosa said that the Board could either return to these issues for perusal, or it can simply acknowledge that there is not a significant number of them to require amendments to the standards.

Chairman Kirkpatrick distributed a sample form for the reporting of *de minimis* exceptions and agreements to exceed for the members to review. Most Board members seemed to like the form.

Ms. Frank pointed out that *de minimis* exceptions are reported through planning and zoning board of adjustment resolutions. By adopting this form, the Board will be requiring more paperwork; that is why Mr. Connolly is not in favor of this proposed form. Since Ms. Hrabal did not think that most agreements to exceed are reported anyway, she argued that it should be easier for someone to check off the form than to write a letter, which may encourage more municipalities to report these. Ms. McKenzie felt that, if the Board does not require a lot of paperwork, the form should help. The big reason the Board wants to see the agreements is to see if the rules should be amended.

A motion to approve this form and to include it in the RSIS for suggested use by municipalities for de minimis exceptions and agreements to exceed the standards was made by Mr. Amorosa and seconded by Ms. Hrabal; the vote was unanimous.

PUBLIC COMMENTS

There were no comments from the public.

BOARD MEMBER COMMENTS

Ms. Hrabal advised the Board members that, in September, the Natural Resources Conservation Service (NRCS) adopted new rainfall criteria that affect Technical Release No. 55, Urban Hydrology for Small Watersheds. What used to be a 100-year storm is now a 50-year storm. Chairman Kirkpatrick asked Mr. Amorosa to check into this and to see if it is applicable to the RSIS rules. Ms. Hrabal said that this is only an amendment to the NRCS National Engineering Handbook; she was unsure as to whether it affects the RSIS.

It was noted that Ms. Sandra Blick of the Division of Watershed Management at the New Jersey Department of Environmental Protection (DEP) was present at the public hearing today. She had indicated that she would

attend more of the Board's meetings to improve communication between the DEP and the DCA.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Ms. Hrabal and seconded by Ms. McKenzie; all were in favor. The meeting was adjourned at 10:56 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of May 27, 2004

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
Leslie McGowan
Elizabeth McKenzie
Michael Amorosa
Frank Doyle
Valerie Hrabal

DCA Staff:

Leslie Lefkowitz, DAG
Michael Baier
Amy Fenwick Frank
John Lago
Melinda Reisner

Guests:

Kenneth Reynolds
Susan M. Weber

New Jersey Builders Association
Bureau of Statewide Planning, New Jersey
Department of Transportation

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the March 25, 2004 meeting. There were none. *Ms. Elizabeth McKenzie made a motion to approve the minutes, which was seconded by Ms. Valerie Hrabal; all were in favor.*

COMMITTEE REPORTS

Stormwater Management Standards Committee:

Mr. Michael Amorosa, Chair of the Stormwater Management Standards Committee, reported on a meeting held on April 30th. The purpose of this meeting was to discuss incorporation of the New Jersey Department of Environmental Protection's (DEP) Stormwater Management rules, adopted on February 2nd, into Subchapter 7 of the Residential Site Improvement Standards (RSIS). He said that the Committee had reached consensus on a revised draft of the amendments to Subchapter 7. He stated that staff of the DEP had reviewed this revised draft and that all but one of the issues raised by the DEP as a result of that review had been resolved.

The remaining issue is whether to include a date with the adoption of the DEP Best Management Practices (BMP) Manual. Mr. Amorosa noted that adopting the BMP Manual without a date allows for constant changes, and that municipal boards and design engineers cannot deal with this. Ms. Hrabal agreed. She noted that all of the authoritative sources cited are dated and that this is necessary for predictability. Chairman Kirkpatrick stated that the Board wants the opportunity to review updated references for consistency with the purpose and intent of the Site Improvement Act. Mr. Michael Baier pointed to the problem created by the fact that the DEP routinely updates the version of the BMP Manual on its web site and noted

that the consensus of the Board has been to use a dated version. Ms. McKenzie posited that the DEP should be held to the same rulemaking standards as other agencies.

OLD BUSINESS

- A. **Updating Stormwater Rules Based on the DEP Adoption:**
The Board discussed the proposed changes to the rules recommended by the Stormwater Management Standards Committee.

Definition of Major Development -- Mr. Amorosa asked about the change to the definition of "major development" recommended by the DEP. He wondered why the quarter-acre impervious threshold was not included. Mr. Baier explained that DEP staff had indicated, for purposes of triggering the stormwater management requirements of the RSIS, the definition of major development should include only one or more acres of disturbance. Ms. Hrabal expressed concern that this would create confusion on the part of towns as to which definition of major development would apply. There was some discussion by the Board on this point. Chairman Kirkpatrick summarized the discussion and the decision of the Board to use the definition that the DEP said should be used for this purpose. He noted that one acre of disturbance or more is the threshold in the DEP rules for municipal discharge plans and, therefore, is the correct standard to use. He further observed that commercial development would comply only with the current municipal stormwater ordinances until the municipalities file their stormwater management plans with the DEP. Mr. Baier explained that the DEP stormwater rules are predicated upon a municipality adopting a stormwater ordinance. The RSIS is the *de facto* municipal stormwater ordinance for residential construction. And therefore, the DEP wants the RSIS to use the definition of major development that is contained in the portion of the DEP rules that sets standards for municipal ordinances.

There was some discussion of using a cross-reference to the definition in the DEP rules. This idea was rejected based on the advice of Deputy Attorney General Leslie Lefkowitz, who pointed out that a cross-reference might create problems if the DEP rules were amended in the future. Because the charge from the Stormwater Management Standards Committee to Department of Community Affairs staff was to draft amendments to the RSIS to make them consistent with the DEP rules and because this is the definition that DEP staff said should be used, it was decided to use the definition in the draft presented to the Board.

A motion was made by Mr. Amorosa and seconded by Ms. McKenzie to accept the definition as presented in the draft; all were in favor.

Discussion of Other Specific Issues in the Draft Rule Amendments --

1. In response to a concern raised by Ms. Hrabal regarding the lack of predictability in setting "acceptable to the municipal engineer" as a standard, the Board agreed to delete what would have been new 5:21-7.2(c)1.vi, "Other NRCS-based methods that are acceptable to the municipal engineer."

2. At the end of the paragraph of N.J.A.C. 5:21-7.2(c)3, the Board agreed to replace "Other recognized methods acceptable to the municipal engineer may also be used," with a reference to the "National Engineering Handbook" and the "Engineering Field Manual for Conservation Practices." The reason for this change is the same as that cited for #1 above.

3. At 5:21-7.8(d)4.ii(2), the Board voted to delete the proposed added phrase "such as concrete" in response to a concern raised by Ms. Hrabal that engineers could infer concrete is the only acceptable material.

A motion was made by Mr. Amorosa and seconded by Ms. McKenzie to accept the report of the Stormwater Management Standards Committee; all were in favor.

A motion was made by Mr. Amorosa and seconded by Ms. McKenzie to recommend that these amendments, with the changes listed above, be moved forward to the New Jersey Register as a proposal. A roll-call vote was taken and all were in favor.

B. Streets and Other Annual Changes:

In Mr. Richard Maser's absence, Ms. McKenzie, a member of the Streets and Parking Standards Committee, reported on the draft amendments to the rules presented for the Board's consideration. Ms. Melinda Reisner noted that, in addition to the changes recommended by this Committee, the draft proposal included the deletion of the definitions of terms not used in the RSIS and other corrections of a minor nature.

A motion was made by Ms. Leslie McGowan and seconded by Ms. McKenzie to accept the report of the Streets and Parking Standards Committee; all were in favor.

A motion was made by Mr. Amorosa and seconded by Ms. McKenzie to recommend that this document, together with the additional changes

and corrections submitted by DCA staff, be moved forward to the New Jersey Register as a proposal. A roll-call vote was taken and all were in favor.

NEW BUSINESS

- A. Resolution for Departing Board Member Peter S. Reinhart:
Chairman Kirkpatrick read a resolution recognizing the contributions of Mr. Peter Reinhart, a charter member of the Board. Chairman Kirkpatrick added that Mr. Reinhart was an exceptional Board member and that he never hesitated to contribute to Board discussions.

A motion was made by Ms. McKenzie and seconded by Mr. Amorosa to adopt the resolution; all were in favor. Each Board member then signed the resolution.

- B. Information on the Highlands Preservation Legislation:
Ms. Reisner reported on the proposed Highlands Preservation legislation. Ms. Hrabal noted that the bill was reported from committee in the General Assembly and will be held in Senate committee until June 14th. Ms. Reisner called the Board's attention to the mention of the Board's role in the legislation, contained in the excerpts from the bill distributed at the meeting.

PUBLIC COMMENTS

Ms. Susan Weber of the New Jersey Department of Transportation (DOT) asked why there was no representative of the DEP at today's meeting and said that she would do her best to ensure that appropriate representatives from the DOT would always be in attendance. She also noted that she had been working with the Office of Smart Growth and questioned whether a representative of that office might be needed for some Board discussions.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Ms. McKenzie and seconded by Ms. Hrabal; all were in favor.

Respectfully submitted,

Amy Fenwick Frank
Secretary Pro Tem

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of March 25, 2004

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
Leslie McGowan
Elizabeth McKenzie
Richard Maser
Frank Doyle
Valerie Hrabal

DCA Staff:

Leslie Lefkowitz, DAG
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Melinda Reisner

Guests:

Kenneth Reynolds	New Jersey Builders Association
Susan M. Weber	Bureau of Statewide Planning, New Jersey Department of Transportation
Tom Harbert	ADS
Robert Schreiber	Burlington Township Engineering

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 10:43 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the February 26, 2004 meeting. There were none. *Mr. Richard Maser made a motion to approve the minutes, which was seconded by Ms. Leslie McGowan; all were in favor.*

COMMITTEE REPORTS

Streets and Parking Standards Committee:

Mr. Maser, Chair of the Streets and Parking Standards Committee, reported on the meeting held this morning before the Board meeting. With regard to the criteria for rural streets, it was the general consensus of the Committee to recommend correcting the definition of Rural Street in the rules and Clarification #2, "Clarification on Rural Streets and Lanes in the Residential Site Improvement Standards," to agree with Table 4.2.

Raised at the last Board meeting was the issue of the use of the words "density" and "intensity," and whether density should relate to development and intensity be used to describe traffic. The use of the word intensity must be clarified. In N.J.A.C. 5:21-1.5(d)3, the Committee recommends the following language change: ". . . or other measures to control development intensity or density; . . ." In N.J.A.C. 5:21-4.2(a), Mr. Maser explained the definition of intensity as used and suggested that the language be amended as follows: "Cartway width for each street classification shall be determined by parking and curbing requirements that are based on the intensity of development served by that street." Under N.J.A.C. 5:21-4.2(b), the sentence can be amended to read: "Intensity of development shall be based on the number of dwelling units per

gross acre of land served by a particular street, excluding the acreage of dedicated common open space or other areas restricted from future development” In the table following, Note a is to be deleted. It is suggested that a new definition for intensity be inserted into N.J.A.C. 5:21-1.4.

The Committee also recommended changing Note d of Table 4.3 as follows: “20’ minor collector cartways are permitted only when there is no direct ~~building lot~~ “driveway” access to or from the street in question.”

A motion was made by Mr. Frank Doyle and seconded by Ms. Elizabeth McKenzie to approve the Committee’s recommendations; the vote was unanimous.

OLD BUSINESS

- A. Updating Stormwater Rules Based on the DEP Adoption:
 Ms. Valerie Hrabal stated that she agrees with many of Mr. Michael Amorosa’s written comments that he submitted prior to the Board meeting. The rule text of N.J.A.C. 5:21-7.1(c) and (d) is already in the Appendix to Subchapter 7. This and the Best Management Practices Manual do not need to be repeated in the text of Subchapter 7, only incorporated by reference. It is important to keep in the language that the standards are the minimum and maximum, and to state this at the beginning. The choice of a strategy needs to be the applicant’s and N.J.A.C. 5:21-7.1 should state that this is allowed. N.J.A.C. 5:21-7.2(i) in the draft conflicts with the minimum/maximum concept. Mr. Michael Baier pointed out that this addresses only regional plans. Ms. Hrabal said she still has concerns about the *de minimis* exceptions issue, especially on stormwater requirements under the RSIS. She noted that the Department of Community Affairs’ (DCA) staff has still not responded to her on this concern as yet. Another comment she had is that the DEP does not recognize TR-20, HEC-1, or the Rational Method. Chairman Kirkpatrick said the State Soil Conservation Committee is changing the hydrograph for southern New Jersey and the Board should review this to see whether the changes should be reflected in the RSIS; it will reduce pipe size. *De minimis* exceptions can be provided. Providing water quality rules is worthwhile.

Chairman Kirkpatrick felt that the options in the RSIS should be independent of the DEP if the DEP is not involved. Ms. McGowan said that municipalities are required to meet certain standards for roads under the New Jersey Pollutant Discharge Elimination System rules. Roads should be built to meet these inlet requirements. Ms. Hrabal added that eco-grates are also required.

Mr. Doyle expressed his concern that the average planning board will find these regulations confusing. They will need advisors. He warned the Board that it

cannot require a lot of reading on the local board's side. Mr. Maser agreed that there is the potential for confusion; there are so many gray areas.

Chairman Kirkpatrick stated that the Board has an obligation under the law to develop RSIS rules. The DEP was invited to all of the Board's meetings. The two agencies exchanged instructional seminars. He warned that the measure of confusion over these rules will be significant in the municipalities. The Board will have to do the best it can where the DEP is not involved. The Board needs to provide the licensed designer with the stability to do his job by allowing a choice of options. It was his contention that what the DEP is doing will create anarchy and confusion. However, at least the Board can create predictability by adopting rules.

Ms. McKenzie cautioned that the Board needs to be clear about when a DEP approval is and is not needed; this will eliminate the appearance of inconsistency between the RSIS and the DEP stormwater rules. Ms. Hrabal added that the distinction between residential development and commercial development also needs to be clear; the municipality must have an ordinance for each. The RSIS cannot be more or less stringent than the DEP rules; one should be able to follow the DEP requirements within the framework of the RSIS.

It was Ms. Hrabal's opinion that the draft for Subchapter 7 needs to be reconsidered by the Committee. Chairman Kirkpatrick agreed, but said that all Board members should have the ability to express an opinion on this. He requested comments from any member who has them. The Committee should have a meeting before the Board meets again. Ms. Amy Fenwick Frank noted that, besides Mr. Amorosa's comments, Dr. Thomas Olenik said that the draft was acceptable to him. Chairman Kirkpatrick said that the question is whether the draft is making the rules clearer or more confusing. He referred this issue back to the Committee. Ms. Hrabal said that the Board should also follow up with the DEP regarding *de minimis* exceptions.

- B. Parking Requirements for Low and Medium Intensities for Residential Access (Table 4.3):
(See discussion under Committee Reports.)
- C. Definition of Rural Streets (Definitions, Table 4.2):
(See discussion under Committee Reports.)

NEW BUSINESS

Operative Date of the New DEP Stormwater Management Regulations through the RSIS:

Regarding the correspondence in the meeting packet between Mr. Anthony DiLodovico of Schoor DePalma and Mr. William Connolly, Vice-Chair of the Board, dated March 4th and 18th respectively, Deputy Attorney General Leslie Lefkowitz explained that the DCA had already obtained advice from the Attorney General's office on this issue. Chairman Kirkpatrick noted that all of the Board members are involved in this process in one way or another. It is important to know when the DEP stormwater rules take effect. If a DEP permit is required, the DEP rules are followed for infiltration. If a DEP permit is not required, then how much infiltration should be allowed? There is a no-man's land there. Each of the Board members probably has a different story to tell each of their clients; it is all very uncertain. But, they must be able to show the DEP what they have done to improve the water quality.

Ms. Hrabal pointed out the DEP's new stormwater regulations apply to projects that do not need a DEP permit. The RSIS is silent on DEP permits. Ms. McKenzie said that, currently for applicants who have to get a DEP permit, part of the confusion arises from the fact that engineers have not had a chance to work with the new rules. Ms. Hrabal noted that the RSIS took the place of municipal ordinances when it came into effect. Now, the RSIS will refer to the DEP's rules for stormwater management. There will be confusion among the municipalities.

Mr. Maser told the Board members his understanding was that the Attorney General said, since the DEP rules do not have a date, they are referenced standards that change in the RSIS immediately when the DEP rules change. DAG Lefkowitz said that the Attorney General wanted to make sure it is understood the DEP regulations do not take six months to become effective.

Responding to a question from Mr. Maser, Ms. Hrabal said that the RSIS agreed with DEP's rules before. Mr. Maser clarified that they were similar, but different. He also noted that the DEP "dances" around the language and asked why the wording is not more specific. Ms. McKenzie felt that the Board has an obligation to educate municipalities on this issue.

Ms. Frank said that the DCA met with the DEP on the approved special area standards. Those for Stafford Township in Ocean County and Egg Harbor Township in Atlantic County are okay. The DEP will review the approved special area standards for Harding Township in Morris County. Limestone areas are specially written into the RSIS. The DEP will have to address this issue for purposes of applying its rules.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Ms. Hrabal and seconded by Mr. Maser; all were in favor. The meeting was adjourned at 11:50 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of February 26, 2004

LOCATION

Conference Room 816
Department of Community Affairs
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Leslie McGowan
Elizabeth McKenzie
Richard Maser
Michael Amorosa
Valerie Hrabal
Thomas Olenik
Phyllis Marchand

DCA Staff:

Leslie Lefkowitz, DAG
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Melinda Reisner

Guests:

Keith W. Henderson	T & M Associates/New Jersey Society of Municipal Engineers
Joanne Harkins	New Jersey Builders Association
Raymond Zabihach	Morris County Planning Board
Liz Semple	New Jersey Department of Environmental Protection, Office of Policy and Planning
Tony Dilodovico	Schoor, DePalma

Sandra Blick

New Jersey Department of Environmental
Protection, DWM

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 10:53 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the October 30, 2003 meeting. There were no corrections. However, Chairman Kirkpatrick noted under Conflict of Interest on page 3 that Ms. Elizabeth McKenzie stated interpretations are done by technical staff at the Department of Community Affairs (DCA). He wanted to clarify the process for interpretations: responses are drafted by staff, then approved by a committee chair or himself prior to being finalized and mailed. He did not want the Board to think that interpretations are left to the DCA. Ms. McKenzie admitted that she probably misspoke in her statement. *Mr. Michael Amorosa made a motion, which was seconded by Mr. Richard Maser, to approve the minutes. All were in favor except Ms. Leslie McGowan, who abstained due to her absence from that meeting.*

COMMITTEE REPORTS

Stormwater Management Standards Committee:

Mr. Amorosa stated that it was the decision of the Stormwater Management Standards Committee to make revisions to the proposal on how to revise the Residential Site Improvement Standards (RSIS) to address the recent changes in the New Jersey Department of Environmental Protection's (DEP's) stormwater management rules. Subchapter 7 of the RSIS, Stormwater Management, should include the requirements from pages 91 through 104. For stormwater management design and water quality, the rules should simply make reference to the new DEP rules at N.J.A.C. 7:8 and include those rules in an appendix. The Committee is asking DCA staff to circulate the draft for Board review. Chairman Kirkpatrick noted that the next Board meeting is scheduled for March 25, 2004, at which time this issue will be discussed. The Committee can meet again before that date, if necessary. Mr. Amorosa said he was thankful to the DEP for offering the solution of putting the relevant parts of the DEP rules in an appendix.

OLD BUSINESS

Conflict of Interest:

Chairman Kirkpatrick asked Deputy Attorney General Leslie Lefkowitz about the status of the conflict-of-interest issue. DAG Lefkowitz responded that the issue has been reconsidered and it has been determined by the Attorney General that it should be referred to the Executive Commission on Ethical Standards, which enforces the State Conflict of Interest Law and makes advisory decisions. This Commission exists to render opinions on how officers of the State, such as the Board members, conduct business. The Board may be 100 percent correct with its interpretation of the statute, but the body that renders the opinion is this Commission. Mr. William Connolly, Vice-Chair of the Board, explained that the problem is that to say a conflict of interest exists is to nullify the statute. He assured the Chairman that the DCA wants to know how to apply the Site Improvement Act and he wants to talk to the Attorney General about it. Ms. McKenzie pointed out that this has to do with how the Board was put together.

NEW BUSINESS

A. Parking Requirements for Low and Medium Intensities for Residential Access (Table 4.3):

Referring to the memorandum in the meeting packet from Ms. Melinda Reisner on cartway widths and parking requirements, Chairman Kirkpatrick stated that the table in N.J.A.C. 5:21-4.2 can be interpreted in different ways. He stated that parking should be allowed on any residential access street and should not be restricted by intensity. Ms. McKenzie agreed that a street can be designed as the designer sees fit and that the standards should indicate that this is permissive. Parking is very specific to individual municipalities. She suggested changing the parking requirements in the table by adding a note “b” if a parking lane is desired; this could go in the next annual changes to the standards. Mr. Maser agreed with this. Mr. Connolly also agreed and suggested changing the table to allow the addition of one or two parking lanes to a high-density street. The minimum design assumption is parking on one side of the street. When concern was raised over the cartway width becoming significantly narrower, Mr. Maser explained that nothing is being reduced, the standards are just allowing the addition of parking lanes. Chairman Kirkpatrick agreed, noting that the standards are just allowing the designer a choice. If on-street parking is to be provided, the standards require a certain number of spaces and the designer decides on placement.

Regarding the “intensity”-versus-“density” issue, a question was raised as to whether density is not the appropriate word to use. It was noted that the word intensity was used in the Rutgers Model Subdivision and Site Plan Ordinance. Ms. McKenzie stated that density is more appropriate and is the term used in the Municipal Land Use Law (MLUL). Mr. Connolly pointed out that it is not just a simple word change; the RSIS uses intensity because the MLUL’s definition of density has a slightly different meaning. Ms. McKenzie suggested using “number of dwelling units per acre served by the street.” Ms. Valerie Hrabal requested that any correction include the term “net.”

Chairman Kirkpatrick referred these issues to the Streets and Parking Standards Committee. Whatever is decided by the Committee and then the Board will go into a proposal for the next annual changes.

Noting that Mr. Peter Reinhart no longer serves on the Council on Affordable Housing (COAH) and therefore no longer serves as the COAH representative on this Board, Chairman Kirkpatrick appointed Mr. Maser to replace him as Chair of the Streets and Parking Standards Committee. The Chairman asked the Secretary to the Board to supply the members with a new committee membership list.

B. Definition of Rural Streets (Definitions, Table 4.2):

Ms. Amy Fenwick Frank explained why this issue is on the agenda. Chairman Kirkpatrick said that this item also deals with density/intensity. He explained his concern that a street with single-family lots can be labeled “rural street,” but if there is a street with a multifamily building that has the same amount of traffic, it does not qualify as a rural street. Mr. Connolly told him that it is not just traffic that defines the street. “Rural streets” is not about content, it is about character. The special purpose is character – houses that are considerably far apart. Chairman Kirkpatrick referred this issue to the Streets and Parking Standards Committee.

C. Nomination of a New SIAB Chair:

It was unanimously agreed that Mr. Kirkpatrick should continue as the Board’s Chair.

D. Board Meeting Schedule for 2004:

The Board members were supplied with the meeting schedule for 2004 in their meeting packets. It was noted that these are just dates set aside each month in case the Board needs to meet. The members approved the schedule.

E. Updating Stormwater Rules Based on the DEP Adoption:

Expressing concern over limestone areas, Mr. Amorosa asked whether geotechnical people could be contacted as consultants. He suggested that perhaps a special area standard could be done.

INFORMATION

Adoption of Amendments to RSIS:

Mr. Connolly announced that the RSIS amendments became effective January 20th. The six-month grace period that allows the use of the previous edition extends to July 20th, after which time all new applications must comply with the new edition of the RSIS.

The RSIS is also now available on the Internet at <http://www.nj.gov/dca/codes/nj-rsis/index.shtml>. Though not incorporated into the site as yet, the amendments will be added in the near future.

PUBLIC COMMENTS

Mr. Tony Dilodovico of Schoor, DePalma listed his involvement with stormwater management issues, some of which include having served on environmental commissions, having worked on the DEP’s Best Management Practices Manual technical committee, and doing consulting work with municipalities and counties. Regarding the DEP’s new stormwater rules, he stated that the municipalities have received the letter from the DEP Commissioner. It brings up questions he has as to

exactly how to implement these rules. According to the DEP, he needs to be designing for these changes now. The RSIS allows a six-month delay in the operative date for any technical changes. To him, there is a difference between the operative and effective dates. If N.J.A.C. 5:21-1.10 (Operative Date) is usurped by the DEP requirements, then is not N.J.A.C. 5:21-1.6 (Development Over Limestone Geologic Formations) also? What about the special area standards for the Township of Stafford in Ocean County? Does Subchapter 4 still exist? If vegetative swales are used in order to minimize impervious cover, can changes be made to streets to accommodate this? He quoted from DEP's response to comments #486 and #487 on stormwater strategies: "Conflicts on the municipal level over compliance would follow the same course as disputes over the application of any other municipal ordinance." He wondered whether maybe he is going too far with this. Mr. Connolly told him that it is important to understand the intellectual basis of the letter from the DEP. Both departments had the advice of the Attorney General. The basis is that, in Subchapter 7 in the technical requirements, the DEP rules are cross-referenced. The cross references do not have a date. The reasonable inference is the current edition. The cross-referenced rule has been updated, so the new edition must now be followed. That is the code interpretation and the reason for the lack of grandfathering. And it is specific to the stormwater management rules. Ms. McKenzie wondered what happens to special area standards that have already been adopted. Mr. Dilodovico asked why N.J.A.C. 5:21-1.10 does not apply. Mr. Connolly told him it is because the more narrow provision overcomes the broader provision. Mr. Amorosa noted that the RSIS also refers to other standards. Mr. Connolly said that it is a question of how the rules were written. DAG Lefkowitz explained that the technical sections in the RSIS can be read and followed. However, a section that refers and adopts by reference uses another agency's rules. The applicant must then obtain those standards in order to ensure compliance. Mr. Dilodovico asked whether he can get a response in writing. Mr. Connolly said yes, if the question is in writing.

Keith W. Henderson, P.E., P.P., P.L.S., Senior Vice-President and Manager of the Environmental Division of T & M Associates, Consulting Engineers, and member of the New Jersey Society of Municipal Engineers stated that his questions were the same as Mr. Dilodovico's. He asked the Board to write a letter to the local boards explaining that the DEP rules take effect immediately. He wanted a blanket response instead of everyone writing in. Mr. Amorosa suggested that the New Jersey Society of Municipal Engineers send a letter. Then, Mr. Connolly could provide a written response to the membership.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Ms. Hrabal and seconded by Mr. Amorosa; all were in favor. The meeting was adjourned at 11:59 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of October 30, 2003

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman
Elizabeth McKenzie
Richard Maser
Michael Amorosa
Frank Doyle
Valerie Hrabal

DCA Staff:

Leslie Lefkowitz, DAG
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
Melinda Reisner

Guests:

Joanne Harkins

New Jersey Builders Association

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:46 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

CHANGE IN DEPUTY ATTORNEY GENERAL

Chairman Kirkpatrick introduced Mr. Leslie S. Lefkowitz as the Board's new Deputy Attorney General. He is replacing Ms. Lauren Corriero. The Chairman said that DAG Lefkowitz will be especially useful to the Board as his field of expertise is with land-use matters and he will be able to contribute to Board discussions. His experience includes work as a municipal zoning board attorney.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the September 18, 2003 meeting. He asked that a correction be made to the fifth sentence of the second paragraph under New Business as follows: "However, if the two sides sign an agreement to ~~do something other than~~ exceed the standards from what is required in the RSIS, it is their business." He also wanted to add a sentence to the end of the paragraph under Board Member Comments on page 6: "Experience has shown it is unlikely the DEP approvals will be granted at the planning board level." Ms. Valerie Hrabal also had a couple of amendments to the first paragraph of New Business. The first is to add the following sentence after the second sentence: "This is not a justifiable reason of a board wanting an agreement to exceed." She added another sentence at the end of this paragraph: "This is indicative of a need to clarify these definitions." *Mr. Frank Doyle made a motion to approve the minutes as so amended, which Ms. Hrabal seconded; all were in favor except Ms. Elizabeth McKenzie, who abstained due to her absence from that meeting.*

OLD BUSINESS

- A. Memorialization of Special Area Standards Resolution for the Township of Chesterfield, Burlington County:

Chairman Kirkpatrick called for a motion to approve Resolution #03-2 – Special Area Standards for Streets and Sidewalks in the Township of Chesterfield, Burlington County. Mr. Michael Amorosa made this motion, which was seconded by Ms. McKenzie; the vote was unanimous.

B. Conflict of Interest:

Chairman Kirkpatrick asked DAG Lefkowitz about the conflict-of-interest issue that has been under discussion by the Board. Mr. Lefkowitz said that he has spoken to his assistant section chief about this and will get an answer to the Chairman as soon as possible. Chairman Kirkpatrick explained that he has been accused of having a conflict of interest when confronted by municipal attorneys, or other full- and part-time municipal employees involved in planning and zoning, who do not like his interpretation of the Residential Site Improvement Standards (RSIS). Ms. McKenzie said that this issue has not come up in her business. She has been fairly cautious in talking about the RSIS, as interpretations are done by technical staff at the Department of Community Affairs (DCA). Ms. McKenzie said that, as practicing professionals, Board members should be able to give their professional opinions and the State should be able to confirm that. Mr. William Connolly, Vice-Chair of the Board, stated that it is important to remember the Site Improvement Act is a very “nuanced” statute; the Board’s interpretations are not binding.

C. Adoption of a Position in Opposition to New Jersey Department of Environmental Protection’s Proposed Rule on Stormwater Management [35 N.J.R. 4220(a) of September 15, 2003]:

By way of background, Chairman Kirkpatrick began by discussing the status of the Board’s comments on the New Jersey Department of Environmental Protection’s (DEP’s) January 6th proposal, noting that they are inconsistent with the RSIS. The RSIS allows for design professionals to decide among various choices or options in order to meet the standards. In his opinion, this is one of the biggest problems with DEP’s proposed rules. The other major problem on the geological side concerns recharge. For example, there is no provision to calculate what the root zone is in order to calculate the effective recharge. The recharge structure must be “sound and cost effective,” which may significantly affect building in the State of New Jersey.

Ms. Hrabal reminded the Board that the DEP has still not met with the Stormwater Management Standards Committee members. Mr. Connolly told her that the DEP has met with the DCA staff. Also, the DEP staff made a presentation last year before the Board. The DCA expects to meet with the DEP again in the coming month. He has conveyed to DEP staff the need to work in partnership with the Board.

Mr. Connolly stated that there are two philosophical issues to be addressed. One is that the Best Management Practices (BMP) Manual should be adopted as rule; this would create predictability. The urban exception for recharge is the second issue. The kind of densities the State Development and Redevelopment Plan is trying to

encourage will not work with the proposed recharge requirements. Each of the technical comments the Board has made is important; they should be taken seriously. The DEP should treat the Board as a partner, not just as another member of the public.

Mr. Richard Maser suggested that, since the DEP has not responded to the Board's letter of April 7th with comments on the proposal, the Board could just iterate its opposition to the proposed rule.

Mr. Amorosa recommended using the Committee's language to draft a resolution. He asked whether the DEP has said it is addressing the Committee's comments. Mr. Connolly told him that he feels DEP staff is seriously trying to work their way through all of the comments they have received. Chairman Kirkpatrick expressed his concern that the Committee's comments will *not* be taken seriously. Mr. Connolly assured him that the DEP will not ignore the Committee's comments. He said the major point he made with DEP staff at the recent meeting was that the Board is a partner.

The discussion then turned to the more recent DEP proposal of September 15th. Ms. Hrabal stated that the "grandfathering" issue needs to be addressed, as it is in conflict with the RSIS. Mr. Connolly commented that, from his understanding, the big change the DEP made was to correct a mistake. All rules generally grandfather something. Chairman Kirkpatrick noted that the RSIS had a grandfather clause – any application that was determined to be complete by June 6, 1997 was grandfathered. Mr. Connolly noted that the current proposal is an amendment to the stream encroachment rules. Originally, it grandfathered any project that had a municipal land-use approval. It is inappropriate to hold up the implementation of State rules for a protracted period of time. And this is what would have resulted from tying the effective date for these rules to municipal approval. However, there should be a transition period for compliance. Once a set of plans is deemed complete, the applicant should not have to redo all his work to come into compliance with new rules.

Chairman Kirkpatrick said that a motion is needed to accept the findings of the Committee, especially in regards to consistency with the intents and purposes of the RSIS as far as predictability, cost-effectiveness, and streamlining of the development process; for grandfathering; and for an urban exception for recharge. Mr. Connolly pointed out that the grandfathering issue is the only one on which the Board can comment by the November 14th deadline of the reproposal. He suggested that the Board may wish to adopt a resolution urging the DEP Commissioner to work with the Board as State partners.

It was decided that the Board will draft two resolutions. One resolution will urge the DEP Commissioner to work with the DCA Commissioner and the Board as State partners. The other resolution will address the grandfathering provision.

Ms. McKenzie questioned whether the Board is compelled to adopt DEP's language. She added that what is needed are rules with flexibility for higher-density development. DAG Lefkowitz said that, if the stormwater management rules are changed, the Board would be bound to follow the DEP rules.

Ms. Hrabal complained that the DEP's stormwater rules must be adopted by each of the 566 municipalities in the State. Each of these municipalities will be allowed to add to them to make them more stringent. This could create 566 different sets of rules. Plus, the towns will have to figure out how to implement them. Mr. Connolly pointed out that, since the RSIS was passed, municipalities have no authority to develop their own standards and they cannot make the standards more stringent.

Answering a question by DAG Lefkowitz, Mr. Connolly said that the RSIS adopts and references the DEP regulations in N.J.A.C. 5:21-7.5(c), page 105 of the RSIS. Therefore, if the DEP changes its rules, the Board is bound to change its rules.

Chairman Kirkpatrick commented that, in the beginning, the Board met with the DEP and came to an agreement on reduction in peak flows to handle runoff volume. This DEP rule, however, has been done completely independent of the Board. Mr. Connolly explained that the DEP takes much more of a "closed approach" to rulemaking than the DCA. In DEP's defense, he pointed out that many members of the Board are very active practitioners. It is obvious why there would be some reluctance on the DEP's part to deal directly with the Board. Ms. McKenzie countered that this Board was made up of practitioners for a reason. Mr. Connolly said that this is appropriate for the Board's work. But, DEP's outlook is more like the Federal Government's, where it is actually against the law for Federal code writers to talk to practitioners off the formal record while a rule is in process. Chairman Kirkpatrick told the Board members that the DCA can get more out of the DEP than can the Board alone. He encouraged the Board to adopt the two resolutions.

Mr. Doyle's understanding, based on the discussion, was that there is no way to be certain of DEP cooperation. He felt that the end result would be to confuse municipalities by the adoption of DEP standards that are different from the RSIS. It is ridiculous if the DCA cannot be assured of some kind of working relationship with the DEP.

Mr. Maser made a motion, which was seconded by Ms. McKenzie, to approve a resolution that will be forwarded to the DEP for the grandfathering of applications deemed complete, with a six-month phase-in period. The vote was unanimous.

A motion was made by Mr. Maser and seconded by Mr. Doyle for a second resolution to be approved and forwarded to the DEP that refers to the April 7th letter reminding the DEP of the Board's concerns regarding exemptions for higher-density

development and choice of options for applicants, and urging the DEP to work cooperatively with the DCA.

Regarding the definition for major development, Ms. Hrabal said that the amount of engineering and associated costs to build DEP-compliant one- and two-family homes on a single lot would be prohibitive; such development should be exempt from the DEP rules. At any rate, the DEP rules were written for application to an entire development, not on a single-lot basis. She was told this could be part of the first resolution. Mr. Amorosa told her that this is a legitimate concern on which the Committee has already commented. She stated that the definition for “major development” in the DEP rules requires these types of residences to comply. By this definition, one- and two-family dwellings would be included as regulated projects. The rules also make reference to a “final municipal building or construction permit.” It should be a “construction permit.” *Mr. Amorosa made a motion, which was seconded, to reopen the motion on the first resolution to include the language that single-family houses be exempt. Ms. McKenzie amended this to say one- and two-family residences on a single lot. All were in favor of adding this to the first resolution.* Mr. Connolly made a comment that staff will check for consistency with the jurisdictional threshold in the authorizing law.

The second resolution will authorize the DCA to act on the Board’s behalf. Mr. Connolly amended this to read “urging the DEP to work with the DCA.” Ms. Hrabal added that the DEP should respond to the comments the Committee submitted. It was agreed that the staff would draft these resolutions and circulate them for approval. *The Chairman called for a vote on the second resolution; the motion was unanimously approved.*

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

Chairman Kirkpatrick reminded those present that a meeting of the Variations, Waivers, and Appeals Committee is scheduled to follow the Board meeting today.

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Mr. Amorosa and seconded by Mr. Maser; all were in favor. The meeting was adjourned at 10:50 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of September 18, 2003

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Leslie McGowan
Michael Amorosa
Frank Doyle
Peter Reinhart
Valerie Hrabal
Phyllis Marchand

DCA Staff:

Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Melinda Reisner

Guests:

Susan M. Weber	Bureau of Statewide Planning, New Jersey Department of Transportation
Kenneth Reynolds	New Jersey Builders Association
Nancy W. Jamanow	Environmental Solutions, Inc. (for Chesterfield Twp.)
Lawrence Durr	Chesterfield Township
Philip Caton	Clarke, Caton, Hintz for Chesterfield

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:44 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

CHANGE IN STAFF

Chairman Kirkpatrick announced that Mr. Michael Baier, who served the Board so tirelessly and professionally, has moved on to another Bureau of the Division of Codes and Standards. Although Mr. Baier's primary responsibilities have shifted, he will continue to work with the Board as a resource on stormwater management issues. Ms. Melinda Reisner, new to the Division this year, will be the technical staff to take his place.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the June 19, 2003 meeting. There were none. *A motion to approve was made by Mr. Michael Amorosa and seconded by Mr. Frank Doyle. All were in favor except Mr. Peter Reinhart, who abstained due to his absence from that meeting.*

PUBLIC HEARINGS

- A. Annual Changes to the Residential Site Improvement Standards:
Chairman Kirkpatrick opened the public hearing to receive comments from the public on the proposed annual changes to the standards; there were none. *He called for a motion to close the public hearing. Ms. Leslie McGowan made this*

motion, which was seconded by Mr. William Connolly, Vice-Chair of the Board; all were in favor.

- B. Special Area Standards for the Township of Chesterfield, Burlington County: Chairman Kirkpatrick noted that the Board has received a letter that addresses the missing items from the application from Nancy W. Jamanow, PE, CME, PP of Environmental Resolutions, Inc., the special area standards applicant for Chesterfield Township. There were no comments from the public. The public hearing was closed. *Mr. Reinhart made a motion to adopt the special area standards for Chesterfield, which was seconded by Ms. McGowan; all were in favor.* A resolution will be prepared for a vote at the next Board meeting.

OLD BUSINESS

Conflict of Interest:

Mr. Connolly told the Board members that a response from the Division of Law was received about a week ago on the ethics question and a possible conflict of interest; however, the memorandum did not answer the question. Rather, it recommends referring the matter to the Executive Commission on Ethical Standards, which enforces the State Conflicts of Interest Law. Chairman Kirkpatrick explained the conflict-of-interest issue. He has been asked on more than one occasion to recuse himself when he deals professionally with a residential development. He always responds that he does not represent the Board and that he is only giving his professional opinion in such matters. The Site Improvement Act stipulates the Board representation. What each of the Board members brings to the table is experience. Mr. Reinhart stated that the Act could have been either written as it was or written to appoint people with no interest. Just because there are interests of a statewide nature, it should not mean Board members need to recuse themselves from specific projects in which they are professionally involved.

Mr. Connolly explained that, when the Department of Community Affairs (DCA) submitted this interpretation request to the Department of Law, the Attorney General's office confirmed it was the office to answer the question. He noted that all types of standards throughout the country are developed by balanced boards of persons having an interest.

NEW BUSINESS

Agreements to Exceed the Standards and Emergency Vehicle Access:

Ms. Valerie Hrabal stated that the majority of mail the Board receives contains misinterpretations of the standards. Among the most common are agreements to exceed the standards for emergency vehicle access, which are being requested just

because the town wants the extra room in cul-de-sacs. This is not a justifiable reason of a board wanting an agreement to exceed. Additionally, waivers are being requested when the issue is really a *de minimis* exception. This is indicative of a need to clarify these definitions.

Chairman Kirkpatrick noted that Ms. Reisner has compiled a table of agreements to exceed the standards that have been received by the DCA. He has reviewed this list and believes that the language on this issue in Subchapter 3 of the Residential Site Improvement Standards (RSIS) could be construed differently from the original intention. Negotiations are allowed between the applicant and the planning board to satisfy both sides. The Board members, at the time of drafting this language, were concerned that these regulations would be ignored. However, if the two sides sign an agreement to exceed the standards from what is required in the RSIS, it is their business. If the applicant wants to do more than what is required, the municipality can deny it. Ms. Reisner pointed out that her table in today's meeting packet is not complete; there are a couple more entries to add. It appears that municipalities and/or developers do not always send these exceptions and agreements in to the DCA. She reviewed the tables with the Board members.

Returning to her argument, Ms. Hrabal said that the cul-de-sac diameters were established on sound planning principles. The Board should always be apprised of the reason the standards are being exceeded and there should always be a reason. Mostly, the given reason for exceeding cul-de-sac diameters is that the road widths are not wide enough for emergency vehicles to turn around. Mr. Amorosa reminded the Board members he had brought diagrams in to a meeting last year that illustrate how following the standards allows sufficient space for this purpose. Besides, if there are only 18 such agreements in five years, he questioned whether it is really a problem. Chairman Kirkpatrick stressed the importance of the Board having regulations that are clear and predictable.

Ms. Hrabal commented that sometimes an application has to be completely redone when an applicant, who has followed the RSIS in its preparation, comes before a board. She asked whether a clarification should be done on this issue. Ms. McGowan suggested that perhaps a form should be used. Mr. Connolly pointed out that the RSIS asks for a planning board resolution when *de minimis* exceptions are submitted to the DCA; these usually state a reason. The agreements to exceed are supposed to come to the DCA from the applicant. The RSIS has always stated the reason copies are sent to the DCA is so that, if there is a problem, the Board can correct the standards on exceptions or, in the case of agreements to exceed, detect abuse.

Chairman Kirkpatrick said that he would like to reactivate the Variations, Waivers, and Appeals Committee to discuss this issue. Mr. Amorosa made this motion, which was seconded; all were in favor. This Committee was reviewed and adjustments were made to its membership as follows:

Variations, Waivers, and Appeals Committee

William Connolly

Frank Doyle

Valerie Hrabal

Robert Kirkpatrick

Elizabeth McKenzie

PUBLIC COMMENTS

There were no comments from the public.

BOARD MEMBER COMMENTS

Mr. Amorosa noted the need to push the New Jersey Department of Environmental Protection (DEP) to work with the Board as a sister agency in promulgating its regulations before it is too far along in the process. Chairman Kirkpatrick agreed. He said that he had heard the proposed regulations were published in the New Jersey Register on September 15th. He noted that Ms. Liz Semple of the DEP has said her agency is looking for adoption of the final rule on January 1, 2004. Chairman Kirkpatrick said that the Board has an obligation to make its rules consistent with the DEP rules, but has had little or no cooperation from the DEP. Mr. Connolly added that the Board developed a set of comments on the DEP's draft regulations, which was transmitted to the DEP. The DCA will follow through on this. Mr. Amorosa pointed out that a matrix has not been created yet on comments received. Mr. Connolly said that, if an applicant has obtained all of his DEP land-use approvals, he is grandfathered. Experience has shown it is unlikely the DEP approvals will be granted at the planning board level.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Mr. Reinhart and seconded by Ms. Phyllis Marchand; all were in favor. The meeting was adjourned at 10:24 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of June 19, 2003

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Leslie McGowan
Richard Maser
Michael Amorosa
Frank Doyle
Valerie Hrabal
Thomas Olenik
Phyllis Marchand

DCA Staff:

Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Melinda Reisner

Guests:

Kenneth Reynolds	New Jersey Builders Association
Richard L. Palatine	Soil Conservation Committee, New Jersey Department of Agriculture
Chris Krupka	New Jersey Pinelands Commission
Susan M. Weber	Bureau of Statewide Planning, New Jersey Department of Transportation
Thomas Harbert	ADS, Inc.

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:50 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the December 19, 2002 meeting. There were none. *A motion to approve was made by Mr. Frank Doyle and seconded by Ms. Leslie McGowan; the vote was unanimous.*

COMMITTEE REPORTS

Stormwater Management Standards Committee:

Mr. Michael Amorosa, Chair of the Stormwater Management Standards Committee, reported on the Committee's work since the Board last met. The Committee members met on February 11, 2003 with representatives of the New Jersey Department of Environmental Protection (DEP) to discuss the two DEP rule proposals that were published in the New Jersey Register: 1) Phase 2 municipal permits and 2) stormwater management rules.

At the March 31st Committee meeting, the Committee members discussed a series of comments they developed on the DEP proposed regulations, which they then forwarded to the DEP. Mr. Amorosa said that the Committee has heard nothing from the DEP since. He was told that the DEP has been inundated with comments and the proposed rules will not be finalized anytime soon. Mr. William Connolly, Vice-Chair of the Board, stated that what the DEP is requiring municipalities to do is causing much

concern. Chairman Kirkpatrick expressed concern that the DEP's stormwater management rules will require that the Residential Site Improvement Standards (RSIS) be changed to agree with them. He was unsure whether the proposed DEP rules are consistent with the intent of the Site Improvement Act. He went on record as saying that he feels it is unacceptable for the RSIS to be inconsistent with the DEP rules. The Board needs to develop a consensus with any other State regulations that have an impact on the RSIS. Mr. Amorosa told him that, until the Board hears from the DEP, it has nothing to react to now. Mr. Michael Baier told the Board that he has started writing on the effect the proposed DEP rules will have on the RSIS. Mr. Amorosa pointed out that, depending upon the changes made, portions may have to be repropose in the New Jersey Register. This would at least set some time parameters.

OLD BUSINESS

A. Discussion of DEP's Proposed New Rules:

(See discussion above under Committee Reports.)

B. Conflict of Interest:

Chairman Kirkpatrick raised the issue of what some perceive as a conflict of interest. He said that, in pursuit of what each of the Board members does in his or her professional duties, they may be asked to interpret the RSIS. Board members should not have to disqualify themselves from doing this. This issue has come up with him. Ms. Amy Fenwick Frank stated the sponsors of the legislation that created the Site Improvement Act specified the membership representation, with the full knowledge that many of the appointed individuals would be those who directly work with the standards in their business dealings. A request for a written interpretation of the statute in this regard was submitted to the Attorney General's office. (A deputy attorney general previously had advised the Board that there is no conflict.) Staff will be following up on this. It was Mr. Connolly's feeling that it is clear there is no conflict of interest. This Board is balanced. A single member's opinion regarding the intent of the standards does not necessarily carry any special weight. An individual member's opinion is not definitive.

NEW BUSINESS

A. RSIS Code Change Proposals for 2003:

Mr. Baier told the Board members that the only code change proposal the Board has received for this year was from Keith J. Lawrence, P.E. of Langan Engineering and Environmental Services, Inc. This proposal recommends changing the minimum width of parallel parking lanes from eight feet to seven feet, based on the latest edition of the American Association of State Highway and Transportation Officials (AASHTO) standards. Chairman Kirkpatrick referred this

code change proposal to the Streets and Parking Standards Committee for its review and recommendation. There was a short discussion on time constraints with the New Jersey Register process for this item. (See below for Committee recommendation following reconvening of Board.)

B. Draft Grace Period Language:

Mr. Baier explained this code change proposal from staff. The proposed language explains the terms “operative date” and “effective date” as they pertain to newly adopted rules, and the difference between the two. This language allows a six-month grace period from the time amendments to the RSIS are adopted and *may* be used to the time when they *must* be used. This grace period applies to any complete application submitted to a planning board or zoning board of adjustment for review. Previously, when a new edition of the RSIS was mailed out to municipalities, the cover letter explained the dates and the distinction between the two. It is really more appropriate, however, to include it in the actual language of the rules.

Mr. Connolly said that the Department of Community Affairs always allows a grace period when amending its rules, so that an applicant may continue using the standards that were in effect when application was initially made.

Chairman Kirkpatrick called for a motion to approve the grace period language. Mayor Phyllis Marchand made this motion, which was seconded by Mr. Amorosa; the vote was unanimous.

C. Draft Clarification on Length of Cul-de-Sacs:

Mr. Baier explained that towns have asked the Board whether they can limit the length of a cul-de-sac. This draft clarifies that the average daily traffic establishes the only limit on cul-de-sacs. Chairman Kirkpatrick referred this item to the Streets and Parking Standards Committee. (See below for Committee recommendation following reconvening of Board.)

INFORMATION

Mr. Connolly told the Board members that the New Jersey Legislature is considering today a proposal to prohibit the use of plastic pipe in underdrains, stormwater pipes, etc. because it could be considered a fire hazard. Assemblyman John S. Wisniewski introduced this bill on behalf of the Concrete Pipe Association of New Jersey.

Chairman Kirkpatrick welcomed a new employee at the Division of Codes and Standards, who has been assigned as staff to the Board: Melinda Reisner. Ms. Frank added that Ms. Reisner has just returned from three days of training on stormwater management.

Ms. Valerie Hrabal introduced Mr. Kenneth Reynolds from the New Jersey Builders Association, who will be attending Board meetings in place of Ms. Joanne Harkins.

PUBLIC COMMENTS

There were no comments from the public.

TEMPORARY ADJOURNMENT AND RECONVENING OF MEETING

Chairman Kirkpatrick asked for a motion to temporarily adjourn the Board meeting while the Streets and Parking Standards Committee holds its meeting, and then reconvene to vote on the issues that were discussed. Ms. Hrabal made this motion, which was seconded by Mr. Richard Maser; all were in favor.

Adjourned: 10:20 a.m.

Reconvened: 10:35 a.m.

Streets and Parking Standards Committee Recommendations:

Code Change Proposal –

Ms. McGowan restated the code change proposal from Langan Engineering as being to reduce the minimum width of parallel parking lanes from eight feet to seven feet, while keeping the dimensions of the traveled way the same. She reported that the Committee felt it makes more sense to reduce the parking lane to seven feet and to shift the extra foot to the moving lane (or traveled way). Therefore, the total cartway width could remain the same. Basically, the striping in the road would shift. The seven-foot parking lane is in keeping with the standards promulgated by AASHTO. *A motion was made and seconded to approve the code change proposal, as amended; the vote was unanimous.*

Clarification on Length of Cul-de-Sacs –

A motion to approve the draft Clarification on Length of Cul-de-Sacs was made by Ms. Hrabal and seconded by Mr. Connolly; the vote was unanimous.

The Streets and Parking Standards Committee recommends that all clarifications be bound in the RSIS book as an appendix for the next printing. The Board agreed with this recommendation.

An administrative correction to address right-of-way width for cul-de-sacs in Table 4.3 was discussed. Chairman Kirkpatrick noted conflicting language where the Board has created two right-of-way widths. Mr. Baier commented that this could be submitted as an administrative correction. The Board was in agreement that this should be done.

Mr. Connolly asked the Board members if they wished to consider amending the cul-de-sac turning radius requirements during this code change cycle. This was an issue that was discussed by the Streets and Parking Standards Committee in the past. The Committee had discussed leaving the cul-de-sac radius the same but widening the throat of the cul-de-sac, which appeared to be a problem for larger vehicles. Mr. Amorosa stated that, when vehicles are allowed to cross over the center line of the street, they are able to negotiate the cul-de-sac without “jumping” the curb. There are few instances where the current cul-de-sac dimensions would not be adequate and those cases could be handled on a case-by-case basis. Therefore, the Board is not proposing a change at this time.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Ms. Hrabal and seconded by Mr. Connolly; all were in favor. The meeting was adjourned at 10:46 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of December 19, 2002

LOCATION

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

ATTENDANCE

Board Members:

*Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman
Leslie McGowan
Frank Doyle
Peter Reinhart
Phyllis Marchand*

DCA Staff:

*Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago*

Guests:

Susan M. Weber

*Bureau of Statewide Planning, New Jersey
Department of Transportation*

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:38 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the October 24, 2002 meeting. There were none. A motion to approve was made by Mr. William Connolly, Vice-Chair of the Board, and seconded by Mr. Peter Reinhart. The vote was called for and all were in favor except Ms. Leslie McGowan, who was absent from that meeting.

PUBLIC HEARING

Special Area Standards Application on Street and Parking Design from the Township of Old Bridge, Middlesex County:
Chairman Kirkpatrick opened the public hearing for Old Bridge Township's special area standards. There were no representatives from the municipality present. He asked if anyone would like to testify regarding these proposed special area standards. Seeing none, he closed the public hearing and requested Board discussion on the issue. Mr. Reinhart ascertained that the Board has received all requested documentation from the municipality.

Chairman Kirkpatrick said that he would entertain a motion to approve the proposed special area standards for Old Bridge for street and parking design. Mr. Reinhart made this motion and Ms. McGowan seconded it; a roll-call vote was taken, which was unanimous.

OLD BUSINESS

Update on the Special Area Standards for the Township of Harding, Morris County:
Mr. Michael Baier reported that Board Resolution #02-1, Harding Township's special area standards, will probably be a book by itself with a color map due to its size (99 pages), instead of being bound into the Residential Site Improvement Standards (RSIS) as the other special area standards are. Mr. Reinhart suggested that the RSIS include an executive summary for Harding, which the other Board members present felt was a good idea.

NEW BUSINESS

A. *Committee Appointments:*

Chairman Kirkpatrick asked the Board members if any of them wished to change their seating on the committees. Mr. Connolly said he would drop off of the Streets and Parking Standards Committee, as without him there will still be five members. As Mr. Richard Maser, being a new member, has not yet been assigned to any of the committees except for the Waiver Review Committee, which is statutorily mandated due to his representation, Chairman Kirkpatrick added him to the Water Supply and Sanitary Sewers Standards Committee, which only had three members.

B. *Board Meeting Dates for 2003:*

After reviewing the dates reserved for Board meetings for 2003, Mr. Reinhart made a motion to approve, which was seconded by Mayor Phyllis Marchand; all were in favor.

INFORMATION

A. *New DEP Rules:*

Mr. Connolly reported that the proposed new rules from the New Jersey Department of Environmental Protection (DEP), the Stormwater Phase 2 Rules for Municipal Permits and the Stormwater Management Rules/Best Management Practices Manual, are now on the DEP's website. They are each over 200 pages. It will be in the New Jersey Register on January 6th. Chairman Kirkpatrick noted the DEP is attempting to require that the original volume of recharge on the site be maintained. If there is a situation where soils do not allow significant infiltration, this can cause a hardship. He commented that the DEP has asked for the Board's input after the fact. He said that the Stormwater Management Standards Committee should schedule two meetings to discuss the DEP proposal.

B. *RSIS Proposal Adoption:*

The adoption for the annual changes to the RSIS appeared in the New Jersey Register on December 16, 2002. There was a problem with the diagrams not printing, so the Office of Administrative Law will reprint them. This reprint will not affect the effective date.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made and seconded; all were in favor. *The meeting was adjourned at 9:59 a.m.*

Respectfully submitted,

*Mary Ellen Handelman
Secretary to the Board*

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

MEETING MINUTES OF OCTOBER 24, 2002

LOCATION

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

ATTENDANCE

BOARD MEMBERS:

*William Connolly, Vice-Chair
Charles Richman
Elizabeth McKenzie
Richard Maser
Michael Amorosa
Frank Doyle
Peter Reinhart
Phyllis Marchand*

DCA STAFF:

*Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Mitchell Malec*

GUESTS:

<i>William Minervini</i>	<i>New Jersey Department of Environmental Protection, Division of Water Quality, Bureau of Non-Point Pollution Control</i>
<i>Joe Skupien</i>	<i>SWM Consulting</i>
<i>Sandra Blick</i>	<i>New Jersey Department of Environmental Protection, Division of Watershed Management</i>
<i>Barry Chalofsky</i>	<i>New Jersey Department of Environmental Protection, Division of Water Quality</i>
<i>Hunter Birckhead</i>	<i>New Jersey Department of Agriculture, State Soil Conservation Committee</i>
<i>Tom Harbert</i>	<i>Advanced Drainage Systems, Inc.</i>

Rick Clemson
Joanne Harkins
Nicholas Tufaro

Advanced Drainage Systems, Inc.
New Jersey Builders Association
American Society of Landscape Architects

CALL TO ORDER

In the absence of the Chair and Vice-Chair of the New Jersey Site Improvement Advisory Board, Mr. Peter Reinhart called the meeting to order at 9:50 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Mr. Reinhart 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Mr. Reinhart asked if there were any corrections to the minutes of the July 25, 2002 meeting. There were none. A motion to approve was made by Mr. Michael Amorosa and seconded by Mr. Frank Doyle; the vote was unanimous.

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION JOINT PRESENTATION

A. STORMWATER PHASE 2 RULES FOR MUNICIPAL PERMITS – BY BARRY CHALOFSKY:

B. STORMWATER MANAGEMENT RULES/BEST MANAGEMENT PRACTICES MANUAL – BY SANDRA BLICK:

Mr. Barry Chalofsky of the New Jersey Department of Environmental Protection's (DEP) Division of Water Quality gave a joint presentation with Ms. Sandra Blick of the DEP's Division of Watershed Management. Mr. Chalofsky noted that the presentation is on the staffs' drafts of the proposed rules, as the DEP Commissioner has not signed them yet. He distributed handouts to the Board members that were not part of the presentation. Giving his presentation first, he stated that New Jersey is in a unique situation

because both sets of rules (*Stormwater Phase 2 Rules for Municipal Permits and Stormwater Management Rules/Best Management Practices Manual*) are coming out at the same time. New Jersey will be piggybacking the New Jersey Pollution Discharge Elimination System on municipal stormwater management. This has a bigger impact on each of the municipalities in the State than it does on the Residential Site Improvement Standards (RSIS). The DEP will be regulating all municipalities, counties, etc. It is the largest permitting program ever undertaken in State Government. New Jersey is fortunate to have the stormwater management rules. Through the municipal permits, every municipality must develop a stormwater management program as well as adhere to the RSIS; it will be mandatory that every municipality adopt a stormwater management ordinance that is consistent with a regional stormwater management plan. Currently, the RSIS directs that, when the DEP adopts future rules, they supersede the RSIS. The DEP is looking for more. For the first time, there will be one set of stormwater management rules and the DEP is looking to integrate these rules into the RSIS.

Mr. Reinhart expressed concern over duplicate reviews of the same items for an applicant at the municipal and State levels. He said that he can see applicants' fees going up with such duplicate reviews. He asked if the DEP has thought about streamlining the process. Mr. Chalofsky said that streamlining is the goal and reported that land-use approvals would still have to be reviewed by the DEP. Mr. Reinhart also asked if this would fall under the 90-day rule, to which Ms. Blick responded that some of them do. Mr. Chalofsky assured Mr. Reinhart that wetlands, stream encroachment, and the Coastal Area Facilities Review Act reviews are getting simpler. It will work best if all parties are following the same guidelines. Because the DEP Assistant Commissioner, who is in charge of land use, is also responsible for the stormwater rules, there should be consistency between the programs.

Ms. Elizabeth McKenzie asked whether the DEP has a formal review in the rules. Mr. Chalofsky told her that municipal ordinances would be approved by the county. There is no formal review process in the DEP, but the DEP will respond to complaints.

Referring to N.J.A.C. 5:21-1.5(b), Ms. McKenzie noted the RSIS language: "Except as otherwise required by rules or other permit requirements of the Department of Environmental Protection regarding stormwater management, the rules are to be interpreted as the minimum required to ensure public health and safety, and the maximum that may be required in connection with residential development." She wondered whether these rules will be different. Ms. Blick replied that the DEP rules are the minimum required and that a policy decision had not yet been made as to whether municipalities may require more.

Mr. Richard Maser observed that the procedures for a regional stormwater management plan will be much more time consuming than the current rules, but it appears that it is the better way to go. Mr. Chalofsky added that there is a process a regional stormwater management plan would have to go through to become a rule. He stated that this process is not necessarily more time consuming, but it is an additional process.

Mayor Phyllis Marchand asked whether this is a mandate for which the municipalities would have to pay. Mr. Chalofsky explained that this is not "State mandate, State pay;" it is a Federal program. There will be costs.

Ms. Blick gave her presentation via a PowerPoint slide show, which emphasized nonstructural stormwater management measures, introduced a groundwater recharge waiver for urban redevelopment, discussed how computational methods developed for groundwater recharge will be available on DEP's website, and addressed water quality and quantity. Mr. Reinhart asked how a region is determined for regional stormwater management plans. His concern was that, in almost every case, political and other boundaries will be crossed. Mr. Chalofsky stated that the plan must be a complete drainage area. Generally, they are looking at areas of about five to ten square miles. Ms. Blick said that the participation of the impacted municipalities would be needed. Mr. Chalofsky added that the regional stormwater management plan is a voluntary process; the regional board will not have review powers, it will simply develop standards. The DEP will review those standards when they are developed, and the resulting standards will be utilized by the municipal reviewing authority and by the DEP.

Ms. McKenzie expressed her concern that an applicant not be required to go through the regional board as well as the municipality. Mr. Chalofsky replied that the applicant is not involved with the regional board, which will be charged with developing the standards; the normal municipal review would apply in the municipality where the development is to take place.

Ms. McKenzie asked whether there will be exceptions to the rules. She pointed out that it would be harder to comply in older, developed suburbs and asked about alternate measures to comply with the standards where land is not available. Mr. Chalofsky said that there is an area in the rules that allows waivers and exceptions. Ms. McKenzie expressed her concern that there be a cohesive State policy on redevelopment and affordable housing. Mr. William Connolly, Vice-Chair of the Board, suggested there be a waiver for recharge in urban areas, or some type of blanket exception. He agreed with Ms. McKenzie in her concern that the suggested approaches work well in suburban or rural areas, but are problematic for urban areas. DCA Assistant Commissioner Charles Richman asked what the standard is for the variance. Ms. Blick told him that it is going to be fairly simple; perhaps a waiver by rule. Ms. McKenzie suggested that, if development is to be focused in a town

center, this is where the rules should be more flexible. Mr. Chalofsky replied that there are provisions for waivers, but the DEP will have to determine whether they are good enough. Mayor Marchand agreed with Ms. McKenzie, adding that her concern is delay in the process. Mr. Connolly pointed out the cost issue, using the Harding Township stormwater regulations as an example. (They were cost prohibitive under the DEP method, but reasonable using the Somerset County estimates.) Ms. Blick said that the DEP is looking at the cost and the process of design.

OLD BUSINESS

A. MEMORIALIZATION OF RESOLUTION #02-1: SPECIAL AREA STANDARDS FOR STORMWATER MANAGEMENT IN THE TOWNSHIP OF HARDING, MORRIS COUNTY:

Upon ascertaining that the original text of the document, now put in resolution format, had remained unchanged, Mr. Amorosa made a motion to adopt Board Resolution #02-1; Mr. Doyle seconded the motion. The vote was called for and the motion passed with four yeas (Marchand, Doyle, Amorosa, Maser) and two abstaining (Reinhart, McKenzie).

B. STATUS OF THE SPECIAL AREA STANDARDS APPLICATION FROM THE TOWNSHIP OF OLD BRIDGE, MIDDLESEX COUNTY:

Mr. Michael Baier reported that the Notice of Public Hearing and Recommended Special Area Standards for Streets and Parking Design within the Town Center District of the Township of Old Bridge, Middlesex County was sent to the Office of Administrative Law, which will publish the notice in the New Jersey Register. The hearing is scheduled to take place at the December 19th Board meeting. The reason for the delay is that Old Bridge Township had not submitted with the application a map of the area to be affected. This has since been received.

C. COMMENT-AND-RESPONSE DOCUMENT ON THE PROPOSED AMENDMENTS TO THE RESIDENTIAL SITE IMPROVEMENT STANDARDS:

Mr. Baier reported that comments have been received from the New Jersey Builders Association (NJBA), the New Jersey Fire Prevention and Protection Association, the City of Vineland in Cumberland County, and the New Jersey Society of Municipal Engineers. Mr. Reinhart asked Mr. Baier to review each comment and response with the Board members.

Mr. Baier noted Comment #14 states that the "Street Type" column should be revised to include all of the applicable street types. Also, Residential Access Street appears twice, while Rural Residential Lane does not appear at all. He explained that the list is in 250-ADT (average daily traffic) increments. It would be impossible to list each one. Mr. Reinhart asked whether language

should be put in the text stating that this is not an all-inclusive list. He suggested removing the "Street Type" column, which Ms. McKenzie agreed with. Mr. Baier noted that the two street types missing were Rural Residential Lane and Neighborhood. Agreeing with the commenter, Mr. Reinhart said that these two should be included. Mr. Maser agreed as well, suggesting that it could be explained under "Notes." Ms. McKenzie agreed with this approach; otherwise, it appears that the primary criterion is the street type.

Regarding Comment #24, which states that the NJBA questions whether the 2000 edition of the Asphalt Handbook for County and Municipal Engineers is an authoritative source in the context of the Site Improvement Act, Mr. Reinhart asked if the Asphalt Institute can be used as the referenced standard. Mr. Maser did not see a down side to doing this. Mr. Reinhart pointed out that, since the Asphalt Handbook for County and Municipal Engineers references the Asphalt Institute, it is better to list it as the referenced standard rather than listing a publication by a New Jersey advocacy group.

It was noted that new regulations in the New Jersey Register must now include a section on how they will address Smart Growth. Ms. Amy Fenwick Frank stated that the proposed amendments will have no impact on Smart Growth or the State Development and Redevelopment Plan.

Mayor Marchand made a motion to approve the proposed amendments to the RSIS for 2002, as amended, and Mr. Maser seconded the motion. The motion passed with six yeas (Marchand, Reinhart, Doyle, Amorosa, Maser, McKenzie).

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Mr. Reinhart called for a motion to adjourn. The motion was made by Ms. McKenzie and seconded by Mr. Connolly; all were in favor. *The meeting was adjourned at 11:09 a.m.*

Respectfully submitted,

*Mary Ellen Handelman
Secretary to the Board*

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

MEETING MINUTES OF SEPTEMBER 19, 2002

LOCATION

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

ATTENDANCE

BOARD MEMBERS:

*Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman
Leslie McGowan
Richard Maser
Michael Amorosa
Frank Doyle
Valerie Hrabal
Thomas Olenik
Phyllis Marchand*

DCA STAFF:

*Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago*

GUESTS:

*Richard Wiedmann
Peter Messina
Robert Fox
Robert Schreibel*

*Township of Harding, Morris County
Ten Towns Committee
Apgar Associates
New Jersey Society of Municipal
Engineers*

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:39 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the July 25, 2002 meeting. He asked that the following corrections be made. In the last paragraph on page 4, the third sentence should be amended as follows: "Mr. Messina stated that new developments are currently required to have the typical grass-bowl/concrete, low-flow ~~tunnel~~ channel detention basin." On page 8, there are four instances where the spelling ("~~L~~awania") is incorrect; it should read "Loantaka." In the second paragraph on page 9, the last sentence should read: "The maps are a resolution of five acres, so they ~~should be very~~ are more accurate than the original proposal, which treated the entire Township (20 square miles) as one classification." Mr. Frank Doyle made a motion to approve the minutes as so amended and Mr. William Connolly, Vice-Chair of the Board, seconded it. Ms. Leslie McGowan abstained due to her absence from that meeting. The minutes were approved.

COMMITTEE REPORTS**A. STREETS AND PARKING STANDARDS COMMITTEE:**

Mr. Michael Baier reported on a meeting of the Streets and Parking Standards Committee on July 25th. Its only agenda item was the special area standards request from the Township of Old Bridge in Middlesex County, which will be addressed later on in the Board meeting.

B. STORMWATER MANAGEMENT STANDARDS COMMITTEE:

Mr. Michael Amorosa reported on a meeting of the Stormwater Management Standards Committee that was held on August 21st. At this meeting, the proposed special area standards for the Township of Harding in Morris County were discussed. The Committee approved the standards by a vote of 3-2 and recommended that the full Board approve the special area standards. Action will be taken on this item later on in the Board meeting.

PUBLIC HEARING**PROPOSED AMENDMENTS TO THE RESIDENTIAL SITE IMPROVEMENT STANDARDS:**

Chairman Kirkpatrick noted that the proposed amendments to the Residential Site Improvement Standards (RSIS) appeared in the New Jersey Register on August 5th. He asked if there were any comments from the public. Mr. Robert Schreibel stated that he is a licensed professional engineer and a licensed professional planner in the State of New Jersey. He is also a member of the New Jersey Society of Municipal Engineers and Chair of the Society's RSIS committee. On behalf of the Society, he thanked the Board and its staff for their efforts with the RSIS amendments. Mr. Schreibel said he will soon be submitting the Society's comments on the amendments, which address some minor technical issues. He would be happy to work closely with the Board members to answer any questions they may have on these comments.

OLD BUSINESS**A. ACTION ON THE HARDING TOWNSHIP SPECIAL AREA STANDARDS:**

Chairman Kirkpatrick stated that comments on the special area standards for Harding Township, which were submitted by Board members and others, were discussed by the Stormwater Management Standards Committee. A new draft of the proposal was distributed to all Board members. He asked if there was any further discussion on the matter. A motion was made by Mr. Connolly to approve the special area standards for Harding, which Mr. Amorosa seconded. The roll was called and the vote passed with seven yeas (Marchand, Doyle, Amorosa, Maser, McGowan, Connolly, Kirkpatrick) and two nays (Olenik, Hrabal).

B. FOLLOW-UP ON THE SPECIAL AREA STANDARDS APPROVED FOR THE TOWNSHIP OF STAFFORD, OCEAN COUNTY:

Mr. Baier reported that the New Jersey Department of Environmental Protection (DEP) has placed a notice of the New Jersey Pollutant Discharge Elimination System permit for the Township of Stafford in Ocean County in the September 11th issue of the DEP Bulletin. The permit will be in effect

following a 30-day public comment period. This action finalizes the approval of the special area standards for Stafford Township.

Mr. Connolly said that he has read the draft and it appears very straightforward. It does not have to be renewed that often. If special area standards apply to site improvements in Stafford, this will obviate the need for an individual to obtain a stormwater permit from the DEP. Chairman Kirkpatrick ascertained that Department of Community Affairs staff will follow up with Stafford on the outcome.

C. DISCUSSION ON THE SPECIAL AREA STANDARDS APPLICATION FROM THE TOWNSHIP OF OLD BRIDGE, MIDDLESEX COUNTY:

Mr. Baier advised the Board members that the special area standards application from Old Bridge Township requests the following deviations from the RSIS: 1) streets that are either 30-feet wide with parking on one side, or streets that are 36-feet wide with parking on both sides (this is consistent with the existing streets in Old Bridge); 2) sidewalks that are six-feet wide instead of four-feet wide, in keeping with the town-centre theme, to accommodate pedestrians; 3) a tighter curb radius (15 feet) than what is called for in the RSIS as a traffic-calming measure to help make the roads more pedestrian friendly; and 4) a lower parking ratio than what is prescribed in Table 4.4, which entails 2 spaces per dwelling unit for single-family, duplex, or townhouse units and 1.75 spaces per dwelling unit for multifamily dwelling units. The recommendation by the Streets and Parking Standards Committee is to move forward with this application and publish the proposed changes in the New Jersey Register.

Mr. Connolly said that Old Bridge Township's town centre is quite old. It is a reasonably dense area around a commercial core, but the commercial core was never fully developed. Old Bridge is now trying to do this. Because of the mixed-use nature, the RSIS may not apply to a good deal of the town centre, but the Township wants special area standards to apply to the parts that do.

NEW BUSINESS

There was no new business before the Board.

PUBLIC COMMENTS

Mr. Robert Fox of Apgar Associates, representing the Township of Harding, thanked the Board for its vote on the special area standards. He especially expressed his appreciation to Mr. Connolly and Mr. Baier for their time and effort in the process.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Mr. Doyle and seconded by Mr. Richard Maser; all were in favor. *The meeting was adjourned at 10:06 a.m.*

The next meeting of the Site Improvement Advisory Board is scheduled for 9:30 a.m. on Thursday, October 24, 2002 in Conference Room 129 of the Department of Community Affairs, 101 South Broad Street in Trenton, New Jersey.

Respectfully submitted,

*Mary Ellen Handelman
Secretary to the Board*

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

MEETING MINUTES OF JULY 25, 2002

LOCATION

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

ATTENDANCE

BOARD MEMBERS:

*Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Elizabeth McKenzie
Richard Maser
Michael Amorosa
Frank Doyle
Peter Reinhart
Valerie Hrabal
Thomas Olenik*

DCA STAFF:

*Lauren Corriero, DAG
Michael Baier
Mary Ellen Handelman
Mitchell Malec*

GUESTS:

<i>Joanne Harkins</i>	<i>New Jersey Builders Association</i>
<i>Susan Weber</i>	<i>Bureau of Statewide Planning, New Jersey</i>
	<i>Department of Transportation</i>
<i>Richard Wiedmann</i>	<i>Township of Harding, Morris County</i>
<i>Peter Messina</i>	<i>Ten Towns Committee</i>
<i>Julia Somers</i>	<i>Great Swamp Watershed Association</i>
<i>Ben Kingsley</i>	<i>Great Swamp Watershed Association</i>
<i>Liz Rosenblatt</i>	<i>Office of Policy and Planning, New Jersey</i>
	<i>Department of Environmental Protection</i>
<i>Paul Fox</i>	<i>Apgar Associates</i>

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:44 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

WELCOME TO NEW BOARD MEMBER

Chairman Kirkpatrick welcomed to the Board a new member, Richard M. Maser, P.E., P.P., C.M.E. He represents the New Jersey Society of Professional Engineers and is President of Maser Consulting in Matawan Borough, Monmouth County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the May 23, 2002 meeting. There were none. A motion to approve was made by Mr. Frank Doyle and seconded by Mr. Peter Reinhart; the vote was unanimous.

COMMITTEE REPORTS**STORMWATER MANAGEMENT STANDARDS COMMITTEE:**

Mr. Michael Baier reported on a meeting held by the Stormwater Management Standards Committee on July 10th to discuss the special area standards application for the Township of Harding in Morris County. The focus of the discussion was on the methodologies for ground-water recharge that would help

modulate the water levels in the Great Swamp Watershed. Land-use and soil-use maps developed by the New Jersey Geological Survey were reviewed. It was a concern of the Committee that these maps may overestimate the amount of ground-water recharge and that they may not be precise enough to accurately determine recharge on a lot-by-lot basis. The minutes of this meeting were distributed to the Board members.

PUBLIC HEARING

PROPOSED SPECIAL AREA STANDARDS FOR THE TOWNSHIP OF HARDING, MORRIS COUNTY:

Chairman Kirkpatrick reminded the Board members that, in reviewing the special area standards application for Harding Township, their decision should be based on certain criteria by law: that it is consistent with the intent of the Site Improvement Act, that it is reasonable and not unduly burdensome, that it meets the needs of public health and safety, and that it takes into account existing infrastructure and surrounding development possibilities.

Chairman Kirkpatrick asked if there was a representative of Harding that would like to make a statement. Mr. Peter Messina stated that he is Past Chairman of the Ten Towns Great Swamp Group. He has been working very closely with the Stormwater Management Standards Committee over the last five years. Basically, he is here to oversee the process and hopes that this is the final meeting. He believes all of the revisions were made to the application that were requested of the Township and all of the tests were performed that were requested, as well. Mr. Messina said he is aware of the studies conducted by the consultants the Department of Community Affairs retained which have found that the proposed special area standards are reasonable and not overly burdensome or costly to applicants. He implored the Board to proceed.

Ms. Valerie Hrabal asked Mr. Messina to give the Board members who do not serve on the Stormwater Management Standards Committee, and who have not been involved with this application, an overview of its content and purpose. Mr. Messina said that the general purpose of these proposed special area standards is to make the stormwater regulations more environmentally sensitive by involving more best management practices (BMPs) than have been promulgated by the New Jersey Department of Environmental Protection (DEP). The Great Swamp Watershed is an extremely environmentally sensitive area. His Group feels that these waters need additional treatment before entering the Great Swamp. In general terms, it involves no net increase in non-point source pollution and no net increase in loss of base flow by retaining the first 1.25 inches of stormwater on site, plus encouraging filtration via sand filters, enhanced swales, drywells, and various other methods, depending upon the soil.

Chairman Kirkpatrick asked Mr. Messina if he has any records he has collected that would indicate the waters in the Great Swamp are suffering or are being degraded in any way. Chairman Kirkpatrick said he is unaware of any data to establish such a fact. Since these special area standards are only going to apply to land that has not been developed yet, can the present conditions, if allowed to continue, be shown to be degrading the quality of the water that discharges from the Great Swamp? Mr. Messina responded that the Group has been taking automatic water samples from the five streams that go into the Great Swamp for about three years. Results have started to come in and it has been found in the vast majority of the five streams that they are exceeding ideal water-quality levels. The results show that these are not pristine areas and that they are degraded. Chairman Kirkpatrick asked if the discharge from the Great Swamp has been tested. He noted that one of the things this special area standards proposal recommends is to create "little swamps" on individual lots to improve water quality -- that is what swamps do and that is what the Great Swamp has done historically. He wondered whether the Great Swamp is overloaded, whether it is doing its job, and whether the quality of water on the discharge end is consistent with what it has been in the past. Mr. Messina replied that that is something his Group is still testing. He does know that, in terms of high water in the flood stage, the Great Swamp gets too much water. High water levels affect the plant and animal species of the Swamp and their habitats. His Group is trying to correct this by requiring infiltration. This would also help to recharge the ground water for areas suffering from the current drought and it would help to create more base flow into the streams.

Ms. Elizabeth McKenzie said it was her understanding that a goal of the special area standards is also to make sure that, if the site drains in several different directions, it does not all get collected and sent out at one point, but that it retains its original watershed direction. Mr. Messina told her that the Group is trying to match the natural conditions. This does not occur when water gets collected in pipes from all different parts and gets put down as fast as possible into a detention basin at the low point of a property. What his Group is trying to encourage is that water be taken off into pockets in the rear yards and other areas, instead of being dumped in one location.

Dr. Thomas Olenik asked what percentage of the drainage area is currently developed. Of the existing development, are there many sites that have water-quality features now, or is the average of the developed area simply free of discharge? Mr. Messina stated that new developments are currently required to have the typical grass-bowl/concrete, low-flow channel detention basin. However, the Group is trying to get away from this and encourage vegetative, wetlands-type basins. He was unsure of the current percentage of areas that are yet to be developed. Dr. Olenik speculated that those developments that are ten years old probably do not have water-quality features, only regular stormwater control.

Ms. Hrabal said that the new State standards for stormwater management from the DEP call for a standard of 80-percent removal of total suspended solids (TSS). That is being implemented in its new stormwater rules and the new Best Management Practices Manual, and is being applied to all new residential improvement projects statewide. She asked why, for the record, 90 percent should be required. Mr. Messina said that the Great Swamp Watershed is a National Wildlife Refuge, and has a lot more diverse species, habitats, flora, and fauna than the average town in an average location somewhere else in the State. That is why the special area designation is being requested and the additional TSS removal is proposed.

Mr. Reinhart asked Mr. Messina why his organization as a whole is not doing more about retrofits. Mr. Messina responded that the Ten Towns Great Swamp Group, which is a different organization than the Great Swamp Association, does do more. His Group has received a grant from the DEP. The Group is taking existing detention basins and retrofitting them to pre-wetlands. They have one slated in Basking Ridge – an existing detention basin that the Group is recreating. As more grants come in and more people become attuned to this, his Group can get more of these basins done. Mr. Reinhart asked him if his Group has any committees that have monitored the effect of upgrading basins. Mr. Messina replied “no,” unfortunately, not for any retrofits that have occurred. One of the things that has to be taken at face value is that water is flowing into a detention basin and running right out of a concrete, low-flow channel, where retrofitted water runs through a created wetland area, through vegetation, which slows it down, cools it off, and cleans it up before exiting. The water has to be cleaner going out under this scenario than with a typical detention basin. Mr. Reinhart asked if his Group has performed a cost/benefit analysis. Mr. Messina told him “yes.” The DCA has retained a consultant to perform this over the last year by checking similarly designed subdivisions and site plans for residential development with the existing Residential Site Improvement Standards (RSIS) and the proposed standards from Harding Township. The consultant concluded that the expense is not prohibitive.

Chairman Kirkpatrick and Mr. Connolly explained the work done by the consultants. During the course of the application before the Stormwater Management Standards Committee, the Committee had asked for certain information. Harding claimed that it was not in the position to pay for the gathering of that information, so the State put the money up to hire consultants. Two Requests for Proposals went out and two consultants were hired to address different issues. The first consultant developed the detail, appropriate BMPs, and design methodologies so that it would be predictable, and so that a design engineer could make correct calculations in order to meet the various standards without asking the planning board to make the decision. The second consultant was hired to assess the impact. This consultant evaluated four sets of plans for recently approved projects in two different ways, making different assumptions about soil types (i.e., soils that infiltrate well as opposed to soils that infiltrate

poorly). The conclusion was that the design methods were predictable. The study did discover some problems in terms of understanding the standards, which were fixed. The cost impacts were pretty modest and not terribly significant. There was one very important finding: The reason it is feasible in terms of cost and benefit is that the proposed special area standards provide for methods for calculating the amount of runoff which are different from what the DEP uses. They are based on the Somerset County methodology, which the Committee was convinced, after a lot of study, was more accurately predictive than the DEP's methodology of what occurs in the Great Swamp Watershed. Utilizing the DEP's methodology, it is not cost effective. Utilizing the methodology that is within the proposed special area standards, it is. The cost impacts were very large with the first consultant's work because the consultant was not applying, in essence, the Somerset County methodology; he was applying the DEP methodology.

Mr. Reinhart asked how the Board can be sure that the use of the Somerset County curve numbers will be honored by other review agencies. Mr. Connolly responded that it would be a problem if the DEP stormwater estimation methodology was overlaid on this. It works because the Somerset County methodology is better for that area. Mr. Reinhart asked if it is feasible to make a condition in the proposed special area standards that Somerset County's standards be used and not the DEP's, so that it would not get overlaid. Chairman Kirkpatrick told him that this is already stated in the proposal. Mr. Connolly admitted that the DEP is a higher authority and that its rules could be overlaid. As a follow up to the last question, Ms. McKenzie asked if there is any potential conflict if the detention applying to the stormwater runoff calculations are done according to the Somerset County methodology, and then when a permit is applied for for something else and calculations are performed, whether there would be problems. Mr. Connolly agreed that that would be a real problem. Chairman Kirkpatrick replied that it is already a problem right now because there are 21 counties that have different standards; when an application is before a county and the county decides that it is going to review the property's stormwater management, the county is able to change what is required. Sometimes the municipality complies with the RSIS, regardless of what the county requires. He has seen such situations. The RSIS does not apply to the county level.

Mr. Connolly said there is obviously no problem in the communities that are in Somerset County. He asked Mr. Messina if he knows what Morris County government's stand is on this. Mr. Messina told him that he knows Somerset County's standards are largely universal to the whole area as being the standards to use. Mr. Connolly asked whether the Morris County Planning Board has different requirements. Chairman Kirkpatrick said that it does. The County of Morris applies its own standards, which are inconsistent with the RSIS. If it reviews an application for stormwater management, there will be problems.

Mr. Connolly asked if the Ten Towns Great Swamp Group can convince Morris County of the benefits of this proposal. Representing the Township of Harding, Mr. Paul Fox of Apgar Associates stated that, prior to the passage of the RSIS, Harding's ordinance called for the use of the reduced-curve-number method in stormwater management. In all the projects that were done at the time, the County never questioned the use of the methodology. Mr. Connolly expressed concern on how to approach Morris County on this issue. Ms. Hrabal said that, basically, the Board is seeking cross-acceptance. Mr. Connolly opined that the ten towns involved are a significant part of Morris County.

Pointing out that one of the goals of the RSIS is to make things predictable, Mr. Messina argued that an applicant should follow the recommendations of the Morris County Engineering Department. Mr. Connolly told him that he is missing the point that was made, which is that the key to the feasibility, or the cost/benefit, of this proposal is the use of the Somerset County estimation of the amount of water. If an applicant is forced to use some other estimation of the amount of water, it will no longer be feasible and there will no longer be a decent cost/benefit relationship.

Chairman Kirkpatrick asked how many of the ten towns are willing to adopt this in the Great Swamp Watershed area. Has there been a commitment? Mr. Messina stated that there is a commitment to adopt, but he cannot guarantee that 100 percent of the ten towns will. The idea behind it is that Harding Township is leading the way. Ms. Hrabal asked if each of the other towns would have to come forward separately to apply for these special area standards. Chairman Kirkpatrick was unsure, but felt that there should be some way to do this en masse. Mr. Connolly said that he would hope the Board would hear from them all. His own personal opinion is that, if the Board were to pass these special area standards, it would mean it was convinced the special area standards are necessary for public safety and welfare in this area. If the Board is convinced that the Great Swamp is a region with special needs, then the special area standards should apply to the entire area with special needs.

Chairman Kirkpatrick asked to return to a question that Dr. Olenik had raised earlier regarding percentages. Chairman Kirkpatrick said that, somewhere in the mid-1990s, the Consulting Engineers Council of New Jersey did a study of the Great Swamp area and determined that ten percent of the developable drainage area was undeveloped. The vacant land was determined and cataloged, and the land that was zoned for development was determined to be ten percent of the total drainage basin.

Regarding this question of percentages, Ms. Julia Somers, Deputy Director of the Great Swamp Watershed Association, stated that the Association has been conducting a land inventory from both a zoning basis and a parcel basis for all of the communities. It has had this done on a zoning basis for all ten towns, but on a parcel-analysis basis for only five of the towns. One of the things considered

was the issue of vacant land. The study found that there is a tremendous variance from one town to another. Most or all of Harding is in the Great Swamp; it is the heart of the Great Swamp Watershed. A substantial portion of the Township remains developable – over 30 percent. The Borough of Madison and the Town of Morristown are closest to “build out.” In Madison, just in one zone for half-acre zoning, there are over 200 houses to be built. It is a complicated answer to what really is not a simple question. The Watershed is divided into five sub-watersheds. Going from west to east they are: the Upper Passaic, which is partially in Somerset County and partially in Morris County; the Primrose Brook; the Great Brook; the Loantaka Brook; and the Black Brook. Two of these sub-watersheds are impaired, as supported by the water-quality analysis that was done by the Ten Towns Committee. In fact, one of them, the Loantaka, does not meet standard in any single parameter. Of the evaluations that are being undertaken by the Ten Towns Committee, which will be done eventually for all of the streams, three of the streams have been done so far. The Loantaka was the first to be done. There is not a single segment of the Loantaka Brook that has not been degraded in some way. The other stream with a problem is the Black Brook. Most of it runs through the Great Swamp and Natural Wildlife Refuge; but at its headwaters, where it is getting its stormwater from, there is still a lot of developable land left. The Township of Chatham is the one community that has already adopted a no-net-increase ordinance that was required by the DEP. Of the other three sub-watersheds, the partially impaired one is the Great Brook. The Great Brook has no sewage treatment plant, as the others do. It has quite a lot of development in its headwaters; there is a lot of developable land left at this time. These special area standards will do a great deal in helping to protect the future integrity of the Great Brook. This Brook failed in some of the quality parameters, but exceeded in others. The two good streams are the Primrose Brook and the Upper Passaic; their water quality is good. Flow data has been collected, as well as chemical data. These collections have been in place for close to five years now. Flow data has been gathered at 15-minute intervals for that entire time, giving the Association a lot of data. Ms. Somers said that the Association feels very confident about the impact on the Great Swamp. To address an issue raised earlier by the Chairman, she stated there has been some study of water quality at the discharge of the Swamp. The Association has only been doing water-quality analysis at the Millington Gorge where the river flows out of the Great Swamp Watershed. It is an unusual watershed in that there is a single point of discharge. The Association has been collecting water-quality data from the Millington Gorge for a little over two years. The results have been somewhat inconclusive, but have shown that phosphorous is a concern. Phosphorous is a pollutant associated with runoff from development. Therefore, how the water runoff is treated is a big concern. Retrofitting is going to be an important part of the future, although it is not part of these proposed special area standards. The Great Swamp Watershed Association strongly supports these special area standards.

Mr. Fox said that, from a practical standpoint, the interested parties have been involved in this process for five years now, with considerable expense and effort on the part of the Township and Township Committee, as well as the Stormwater Management Standards Committee. They would not have gone through the whole process if they did not feel that, first of all, the development capacity was there, and secondly, that the enactment of such special area standards would have a substantial and appreciable effect on the water quality of the Great Swamp.

Ms. Joanne Harkins stated that she is a Professional Planner and the Director of Land Use and Planning at the New Jersey Builders Association (NJBA). She has reviewed the Township of Harding's special area standards proposal. It is her understanding that this proposal is intended to recharge ground water and to protect water quality through the use of BMPs identified in the special area standards. It is also her understanding that, if the other nine municipalities choose to use the special area standards, they would only apply to the Great Swamp areas of the municipalities. If the soil types preclude the use of the particular BMPs, would the RSIS be the default? Mr. Connolly responded that, with the seven-zone map, there is not a need for a default. The reason for the zones is that they reflect the relative ability of a particular site to infiltrate; it also reflects historically whatever it has infiltrated. So, it is much more fine tuned than the original application and the requirements of a particular site are a function of the characteristics of that site. Chairman Kirkpatrick added that these requirements should be determined physically on site and not by the overlay of a map, the generalities of which may or may not be consistent with what is found at the site. He would guess that the soil would be tested to determine which of the zones it fits into; the results would determine the numbers for infiltration. Mr. Connolly commented that the proposed special area standards do not require testing, per se; they work off of the map. However, if an applicant feels that it is worth his while to do testing to show that the map is excessive on a particular site, he may do so, because the special area standards are meant to work with the actual soil conditions. The maps are a resolution of five acres, so they are more accurate than the original proposal, which treated the entire Township (20 square miles) as one classification.

Ms. Harkins said that the NJBA has some significant concerns with the utility of this type of system, and the functionality and cost of these special area standards. She related her experience with the Township of Medford in Burlington County in the late 1960s into the 1980s when it embarked on something very similar to this. The University of Pennsylvania was involved. Money was raised privately. A natural resource inventory was done. Standards were developed that were very similar in intent to the Harding Township proposal with the dry wells, the infiltration, and the swales. Medford Township adopted an ordinance to use these techniques. After implementation, the municipality was finding that the techniques were performing poorly, some were working badly, and a lot of them the residents did not like at all. Some very expensive

reengineering and replacements had to be done. There were a number of bankruptcies from this in the town and the economy deteriorated. She also told the Board members that the NJBA has a committee that follows the RSIS. Its engineers were asked to look at the proposed special area standards. They were all stunned by what they found, as they could not find an empirical way to do the calculations. There were questions about who the authoritative source is. There is no testing for each of these techniques, in particular, the treatment train. The review engineers are not trained in these techniques, either. There is concern that decisions will be at the whim of the reviewer, and that they are going to be very subjective. The review engineers were not certain as to whether the choice of any particular BMP was at their option. Ms. Harkins contended that the special area standards are not always clear. For example, regarding the buffer filter strip – can this be coterminous with the wetlands buffer, or is this an additional buffer to a wetlands buffer? There were several questions of that nature. The NJBA is also concerned about confusion that may result from DEP stormwater regulations and the BMP Manual. Once the new regulations and manual are approved, would that then replace the Harding special area standards? Mr. Connolly told her “no,” because the underlying statute permits more restrictive municipal regulation. Ms. Harkins told the Board members that there was also concern about the Soil Conservation District. Typically, these practices are not accepted use. There is also an issue similar to the issue with the special area standards in the Township of Stafford in Ocean County with subsurface recharge from parking lots that also requires permits. She has not heard that Harding has been working on this, or if there have been any efforts to resolve it. In conclusion, the NJBA has serious reservations about the use of the proposed special area standards for Harding Township. They are going to be hard to apply, the stormwater systems are not going to function as intended, and there are going to be other problems.

Reading from the RSIS, N.J.A.C. 5:21-3.5(c)4 and 5:21-3.5(i), Chairman Kirkpatrick reminded the Board members of the language they put in Subchapter 3 which establishes controls and procedures for the Board to follow for special area standards applications. He asked for Board member discussion on the application. Posing her question to the members of the Stormwater Management Standards Committee, Ms. McKenzie asked whether some of the issues raised by Ms. Harkins could be addressed by them. Chairman Kirkpatrick said that he would ask the Committee to respond, but he reminded her that the regulations put the onus on the applicant for making the submission as complete as it needs to be to satisfy the Board. To his knowledge, he said that the Committee has not discussed the acceptance of some of the BMPs with the Soil Conservation Service (SCS), for instance. Mr. Connolly felt that the approval should not be delayed until all outside agency approvals have been obtained. The Board has been working a great deal with the SCS over the years in this process. There was no doubt at the beginning, because the SCS was looking strictly from its perspective of dirt runoff and to some extent flood hazard control, that it was extremely wary of infiltration measures. The SCS felt that floods cannot be

controlled with infiltration. This is true, but these are not flood-control measures, they are water-quality control measures and ground-water protection measures. After five years of dialogue, the SCS is really part of the team.

Mr. Fox said that the SCS has a whole list of BMP methods in the back of its standards book and a large majority of the ones that Apgar Associates recommends is also recommended by the SCS. Mr. Baier agreed and added that the SCS has not expressed any concern about using them. Chairman Kirkpatrick commented that he has found level spreaders to be useful. The SCS has said that they were not useful; however, level spreaders are now in the BMP Manual. Mr. Amorosa said that, coming from a district supervisor, it was his feeling that the SCS has changed its position on level spreaders.

Mr. Fox addressed Ms. Harkins' statements regarding implementation of the proposed special area standards by NJBA engineers. He said that, as Mr. Connolly pointed out, the Stormwater Management Standards Committee hired two different consultants to test and essentially assess whether or not engineers could implement these special area standards. They did identify some problems and those have been addressed; their reports bear that out. Mr. Connolly agreed that the consultants could perform the engineering. That does not mean that every engineer involved with stormwater can engineer it; they need to learn. But, basically, a highly qualified firm indicated that it was not a problem.

Chairman Kirkpatrick said that there is another issue that was raised with respect to how applications for improvement in a special area will be reviewed. He reminded the Board members that N.J.A.C. 5:21-1.5(c)3 states: "Choice among options contained in these rules shall be the applicant's, unless otherwise specified in these rules." This would apply to all choices, including which BMPs are to be used, that a design engineer can make; they are not the options of the review engineer.

Chairman Kirkpatrick asked the Board members if they have heard enough to be able to take action on this item, and whether they would like to vote on the issue the way it stands, or refer it back to the Stormwater Management Standards Committee for revisions. Mr. Doyle felt that the Board has gone through this issue quite a bit and, unless someone on the Board has a reason to bring something up that should be added, should move ahead with it.

Ms. Hrabal asked, if the Board approves this proposal, what will happen next timeline-wise. Is there an effective date? Is there a time frame in which the Board puts conditions on the Township to get cross-acceptance? Mr. Baier noted that the Board did this for Stafford Township; it was given a year to obtain a general permit from the DEP. Mr. Connolly said that there would be an adoption of a formal written resolution at the next Board meeting; this would set an effective date. The RSIS itself has a standard six-month phase-in procedure, which allows the standards to be used right away, or if an application is already

in, the application can be finished under the rules that applied at the time it was filed. The rules that govern are the rules that are in effect at the time the application is filed.

Mr. Reinhart said that he could not support the special area standards in the current form without some assurance that other review agencies were on board, such as with the use of Somerset County's standards. The Board should also consider the condition that the other nine towns adopt these standards, as it is a regional issue. He also would like some assurance that Morris County would go along with it (acceptance from the Morris County engineer); it would be beneficial if the County were an integral part of the process. In addition, any concerns of the SCS should be addressed. He noted that the Board can approve this either in whole or in part; it does not have to be adopted or rejected as presented. The members can make some recommendations and make changes, or add conditions to it. These issues could be satisfied within a certain time frame after approving the special area standards. Mr. Reinhart said he has no problem with referring this back to the Stormwater Management Standards Committee to address these concerns.

Chairman Kirkpatrick asked if there were any amendments, questions, or revisions that any of the Stormwater Management Standards Committee members are interested in making. He also wanted to be sure that all the Board members have read and understand the proposal. Ms. McKenzie asked what happens if there is an interpretation issue, or a problem that arises in the application of these special area standards. Do such issues come before this Committee? Chairman Kirkpatrick responded that the Board operates in an advisory capacity and is not in a position to interpret the standards for specific projects. The Board informally supplies clarification and provides guidance on the intent of the standards in letters on questions of interpretation, but the letters indicate clearly that they are not binding on the municipality. This would be true with the special area standards the Board approves, as well.

Chairman Kirkpatrick reemphasized the subsection he read previously regarding the choice of options, which he felt many people have a tendency to overlook. Perhaps it needs a more prominent place in the Scope and Applicability language of the RSIS. It is the name, signature, and seal of the designer that appears on the plans, not that of the reviewer; therefore, it is the designer who has the choice of options.

Mr. Doyle asked whether the special area standards are always open to changes if adopted now. He felt that this application has been worked on for such a long time and the Board should now move on it. Chairman Kirkpatrick told him that he would like to move it, but not in a direction where it is going to have to be reversed. Mr. Amorosa apologized, acknowledging that, as Chair of the Stormwater Management Standards Committee, he is the one who pushed this application through because it had been in Committee so long. He suggested

that the Board refer it back to Committee to consider the various comments from the Board members for the next 60 days and the Committee will return it to the Board with a recommendation; the Board had not previously received a recommendation from this Committee.

Chairman Kirkpatrick said that, if this is what the Board's action will be today, then he wants to tie it down to some specific schedule. He does not want this item to continue on the agenda much longer. The members discussed Board meeting dates when this could be voted on. They decided on the September 19th date, as this would be 60 days. After at least one meeting of the Stormwater Management Standards Committee, the Board will meet to take action on this agenda item. He said he wants Harding Township representatives in attendance at that Board meeting.

Mr. Messina said that he is disappointed in the discussion he is hearing now. He thought these issues were all ironed out with the Stormwater Management Standards Committee. At this late date, he is surprised that letters are being written the day before or of the meeting with questions about the special area standards. Mr. Amorosa replied that, if he pushes it to a vote right now, the special area standards will likely not be approved by the Board. He told him not to chastise this Board for what it is doing. He asked him to give the Board another 60 days. Another comment Mr. Messina had was that this is Harding's request for a special area designation. The condition that it be mandatory for the other nine towns to join in might be over-burdensome. It would be difficult to get them all to join in; they may do it, but he cannot guarantee that right now. He thinks it would be improper to have a condition; to expect to get all of the nine other towns to accept this may be unreasonable and overly burdensome. Mr. Connolly clarified the comment that was offered was not that it be a condition of the special area standards becoming effective for Harding, but that it would be something that should happen within one year.

Mr. Doyle made a motion to approve the proposed special area standards for the Township; Mr. Reinhart seconded the motion. Mr. Connolly moved that the motion be tabled so that the Board can take advantage of Mr. Amorosa's wise suggestion. *Mr. Amorosa expressed his concern that, with a motion to table, it would be the Chairman's preference to put it back on the agenda for a vote, and that may never happen.* Ms. McKenzie seconded the motion to table. A call of names for the vote to table showed five yeas (Amorosa, Maser, McKenzie, Connolly, Kirkpatrick) and four nays (Olenik, Hrabal, Reinhart, Doyle); the motion to approve Harding Township's special area standards application was tabled.

Mr. Maser made a motion to send the Harding special area standards proposal back to the Stormwater Management Standards Committee to address outstanding concerns with the application; Mr. Connolly seconded it. The vote was unanimous.

Chairman Kirkpatrick explained that the special area standards application will go back to the Stormwater Management Standards Committee. Any Board member who has comments or suggestions needs to get them to the Chair of the Committee as soon as possible. The next meeting of the Committee will discuss the Township's application, and representatives of the Township will be invited to attend and may be asked to participate. As soon as this Committee feels it has addressed all concerns and can make a recommendation to the Board, it will be on the agenda for the following Board meeting. As Chairman, he will call a Board meeting just for the sake of having this item back on the agenda if it does not come back from the Committee within 60 days, using the preestablished dates the Board has set aside for meetings for the year. Mr. Connolly said that, if there are many Board members who cannot attend on the preestablished date, he will attempt to identify a suitable date where everyone can be there. Chairman Kirkpatrick agreed; he wants to have a meeting where most, if not all, of the members are available to deal with this issue, so that it is not something that was done by a small group. The Committee members worked out a date for a meeting to deal with this issue: August 21st. Mr. Fox said that he is certainly interested in doing as thorough a job as possible. Chairman Kirkpatrick asked Mr. Baier to keep the applicant informed of any comments received on the application. The Chairman asked that all comments be submitted to the Committee by August 9th.

OLD BUSINESS

A. ACTION ON THE HARDING TOWNSHIP SPECIAL AREA STANDARDS:

As noted above, a vote on the special area standards for Harding Township was tabled and the draft is being sent back to the Stormwater Management Standards Committee for further consideration.

B. FOLLOW-UP ON THE SPECIAL AREA STANDARDS APPROVED FOR THE TOWNSHIP OF STAFFORD, OCEAN COUNTY:

Nothing has been done on this as yet.

NEW BUSINESS

APPLICATION FOR SPECIAL AREA STANDARDS FROM THE TOWNSHIP OF OLD BRIDGE, MIDDLESEX COUNTY:

Chairman Kirkpatrick noted the special area standards application received from Old Bridge Township. He referred this item to the Streets and Parking Standards Committee for consideration. Ms. McKenzie said that she may have a conflict with this issue as she is the court-appointed master on a matter that involves a residential development that is affected by the town center. However, it has

nothing to do with design standards. Chairman Kirkpatrick told her that she does not need to stop doing business by serving on this Board.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Mr. Reinhart and seconded by Mr. Amorosa; all were in favor. *The meeting was adjourned at 11:20 a.m.*

Respectfully submitted,

*Mary Ellen Handelman
Secretary to the Board*

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

MEETING MINUTES OF MAY 23, 2002

LOCATION

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

ATTENDANCE

BOARD MEMBERS:

*Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman
Frank Doyle
Michael Amorosa
Leslie McGowan
Thomas Olenik
Valerie Hrabal*

DCA STAFF:

*Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Mitchell Malec*

GUESTS:

<i>Sandra Blick</i>	<i>Division of Watershed Management, New Jersey Department of Environmental Protection</i>
<i>Joanne Harkins</i>	<i>New Jersey Builders Association</i>

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:44 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the February 28, 2002 meeting. There were none. A motion to approve the minutes was made by Mr. Michael Amorosa and seconded by Mr. William Connolly, Vice-Chair of the Board. The vote was unanimous.

COMMITTEE REPORTS**STREETS AND PARKING STANDARDS COMMITTEE:**

In the absence of the Streets and Parking Standards Committee Chair, Mr. Michael Baier reported that most of the discussion at the meeting on March 28th centered around the proposed changes to the Residential Site Improvement Standards (RSIS). One item discussed was the minimum turning radius for cul-de-sacs. Chairman Kirkpatrick distributed drawings depicting the differing turning radii for a fire truck, a school bus, a straight-unit truck, a United Parcel Service truck, a WB-40 tractor trailer, and a WB-50 tractor trailer.

OLD BUSINESS**A. DISCUSSION ON REVISED SPECIAL AREA STANDARDS APPLICATION FOR THE TOWNSHIP OF HARDING, MORRIS COUNTY:**

Composite curve numbers have been added to the draft special area standards for the Township of Harding. Chairman Kirkpatrick asked if the special area standards should default to the current RSIS in the event that recharge will not work with soil conditions on site. Mr. Connolly responded that this is correct, but it should not be necessary because Harding Township is using a reduced quantity of recharge where soil conditions are not acceptable. It was noted that the special area standards are applicable to the Great Swamp Watershed only; going beyond that would be hard to justify. There will be no requirement to redress conditions off site if it cannot be done on site. Mr. Connolly commented that very little water will need to be recharged.

Chairman Kirkpatrick acknowledged the Stormwater Management Standards Committee's recommendation that the proposed special area standards be considered by the full Board. They are now ready to be published in the New Jersey Register. He asked that every Board member read the special area standards draft and be ready to vote on it at the next meeting.

B. FOLLOW-UP ON THE SPECIAL AREA STANDARDS APPLICATION FOR THE TOWNSHIP OF STAFFORD, OCEAN COUNTY:

The New Jersey Department of Environmental Protection has sent notification that it is behind schedule on issuing the groundwater discharge permit for the Township of Stafford; it should be out soon.

NEW BUSINESS**A. COMMITTEE RECOMMENDATIONS ON CODE CHANGE PROPOSALS:**

It was noted that clarifying language has been added to N.J.A.C. 5:21-4.5(e) to state that it does not apply to driveways.

Both details of the Belgian block curb are shown in Figure 4.1 (3 of 6). Ms. Valerie Hrabal pointed out that this will vary, depending on the pavement thickness. Mr. Baier said that the Board is not changing what is currently in the RSIS in this regard; a new figure is being added. Ms. Hrabal felt that the detail for Figure 4.1 is wrong; it should not be six inches and the asphalt should not abut the curb, but should abut the concrete that the block is encased in. Mr. Baier advised her that municipalities are doing it both ways; this is the feedback received by the Department of Community Affairs (DCA).

Some discussion ensued regarding the multifamily access street type in Table 4.3 and the "1,000" total average daily traffic figure. There was a question about how the stem should be designed. Staff explained it would be no different than how cul-de-sacs are treated. The applicant is allowed to choose what street type the stem will be. The different types of residential access streets were reviewed. Chairman Kirkpatrick stressed the importance of making the standards very clear because there are people in the field that are misinterpreting them.

Chairman Kirkpatrick called for a motion to approve the draft proposal of the 2002 annual amendments to the RSIS to be sent to the DCA Commissioner for publication in the New Jersey Register. Mr. Amorosa made the motion, which was seconded by Mr. Connolly; the vote was unanimous.

B. MINIMUM AND MAXIMUM INTERSECTION SEPARATION DISTANCES:

Chairman Kirkpatrick explained the issue that has come to his attention in a letter from Mr. Matthew Mariano of Flannery, Webb, & Hansen, P.A., dated April 26th, regarding intersection separations. Chairman Kirkpatrick said that some municipalities have a block depth of 500 feet for roads that enter on the same side of a street. There are safety issues that may arise if this block depth is shortened. He asked whether the Board should take corrective action in the standards. Currently, the rules stipulate that roads must have a 150-foot separation when they are entering a street from opposite sides. Mr. Connolly said that stopping distances might be a problem if two cars attempt to enter traffic simultaneously at too close a distance. Mr. Amorosa added that the traffic speed and the stopping distances for the vehicle that pulls out in front of another car must also be considered. Mr. Frank Doyle suggested looking into why the township is doing this.

Chairman Kirkpatrick noted that the Board will not be considering this as a change for this year's amendments to the standards, but it should be discussed for next year's. He referred the issue to the Streets and Parking Standards Committee. Being asked how the Board is going to answer this particular letter, he responded that all roads should have correct spacing for sight distances. The letter will also say that the Board is looking into this issue and may introduce new standards to address it.

PUBLIC COMMENTS

There were no comments from the public.

BOARD MEMBER COMMENTS

Chairman Kirkpatrick stated that he has brought with him materials for the Board members' perusal to illustrate how the RSIS is being misinterpreted. These problems will be discussed at the next Streets and Parking Standards Committee meeting.

It was determined that there would be no Board meeting in June. The public hearing for the special area standards for Harding will probably take place at the July Board meeting. Chairman Kirkpatrick felt that the Board should have a voice in making recommendations to the DEP. The Board needs to be assured that what is being proposed is based on scientific data. He referred to a letter he wrote to Mr. Haig F. Kasabach, State Geologist with the New Jersey Geologic Survey, dated May 10th, regarding its maps that were used to develop ground water recharge standards for Harding Township. Chairman Kirkpatrick expressed concern that the Survey's maps may overpredict the amount of recharge that occurs.

Mr. Amorosa noted that Mr. Joseph Skupien is leaving Somerset County to work as a consultant.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Mr. Amorosa and seconded by Ms. Leslie McGowan; all were in favor. The meeting was adjourned at 10:29 a.m.

Respectfully submitted,

*Mary Ellen Handelman
Secretary to the Board*

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of February 28, 2002

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman
Frank Doyle
Phyllis Marchand
Michael Amorosa
Leslie McGowan
Peter Reinhart

DCA Staff:

Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Mitchell Malec

Guest:

Susan Weber

Bureau of Statewide Planning, New Jersey Department of
Transportation

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:44 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the January 24, 2002 meeting. There were none. *A motion to approve was made by Mr. Frank Doyle and seconded by Mr. Peter Reinhart. All were in favor except Mayor Phyllis Marchand, who abstained due to her absence from that meeting.*

COMMITTEE REPORTS

Streets and Parking Standards Committee:

Mr. Reinhart, the new Chair of the Streets and Parking Standards Committee, reported on a meeting held January 24th. At that meeting, the Committee discussed multifamily access streets, shared parking for multifamily developments, a change to the sidewalk provisions of the Residential Site Improvement Standards (RSIS) regarding "net density," a change to the standards regarding rural streets and rural lanes, proposed changes for 2002, agreements to exceed for bigger cul-de-sacs for fire trucks, and an anticipated special area standards application from Hudson County on behalf of its municipalities regarding parking requirements.

OLD BUSINESS

- A. Status of the Special Area Standards Application for the Township of Harding, Morris County:
Mr. Michael Baier reported on a meeting with the consultant, a representative of the Township of Harding, Mr. Joseph Skupien of the Somerset County Engineering Department, and a staff member of the New Jersey Department of Environmental Protection's (DEP) Geologic Survey. There were four outstanding issues: the runoff equation, the use of composite curve numbers, the need to adjust the water quality and recharge requirements for seasonal effects, and the adjustment of the initial abstraction number to deal with depression storage. Of the issues, only the need to address composite curve numbers for stormwater flowing from impervious surfaces to pervious surfaces was considered necessary. The plan is to simplify the methodology contained in TR-55 and incorporate it into the Harding special area standard. Mr. Baier is to share the draft ordinance with the Stormwater Management Standards Committee as soon as he receives it.

- B. Follow-Up on the Special Area Standards Approved for the Township of Stafford, Ocean County:
For the benefit of the new Board members, Chairman Kirkpatrick explained the background on this issue and its status. He said that the letter from Mr. John S. Mullan of Bay Pointe Engineering to Barry Chalofsky, P.P. of DEP's Bureau of Non-Point Pollution Control, dated January 31st, is a good sign, but wondered why it took so long. Previously, the DEP had said it would not accept such a permit. Mr. Michael Amorosa asked whether there is a time limit for the DEP to act on the application. Mr. Baier responded that the DEP had promised a resolution by April or May.

Mr. Baier told the Board members that, on March 5th, the DEP is holding an open forum on its stormwater rules.

- C. Appointment of Committee Chairs:
Mr. Reinhart is now Chair of the Streets and Parking Standards Committee. Dr. Thomas Olenik will continue to chair the Water Supply and Sanitary Sewers Standards Committee. For the Stormwater Management Standards Committee, Mr. Amorosa will be Chair. The Waiver Review Committee will meet its full complement when a new appointment is made for the New Jersey Society of Professional Engineers.
- D. Conflict of Interest:
Mr. William Connolly, Vice-Chair of the Board, reported that he had sent a letter to the Attorney General's office requesting an opinion on whether there exists a conflict of interest for Board members who interpret or deal with the RSIS in carrying out their professional duties. Chairman Kirkpatrick gave the background on this request and noted that Deputy Attorney General Keith Costill opined that there is no problem/conflict. Mr. Connolly said that the Attorney General's office has contacted him advising him that this issue would be more appropriately addressed by the Executive Commission on Ethical Standards. Mayor Marchand asked how long it takes to get an opinion. She felt that the Board could recuse itself from everything and never get anything done.

NEW BUSINESS

Public Testimony on the Code Change Proposals for the RSIS for 2002:
No members of the public offered testimony on the proposals.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made and seconded, and all were in favor. The meeting was adjourned at 10:07 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of January 24, 2002

LOCATION

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

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Michael Amorosa
Frank Doyle
Leslie McGowan
Elizabeth McKenzie
Peter Reinhart

DCA Staff:

Lauren Corriero, DAG
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Mitchell Malec

Guests:

Joanne Harkins
Susan Weber

New Jersey Builders Association
Bureau of Statewide Planning, New Jersey Department of
Transportation

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:43 a.m.

ROLL CALL

The roll was called and attendance was duly noted for the record.

OPEN PUBLIC MEETINGS ACT

Chairman Kirkpatrick 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 Times of Trenton, The Asbury Park Press, The Press of Atlantic City, The Courier-Post of Camden, and The Record of Bergen County.

APPROVAL OF MINUTES

Chairman Kirkpatrick made the following corrections to the minutes of the December 13, 2001 meeting. Under Agreements to Exceed on page 5, the seventh sentence should be stricken ("~~If the developer proposes an agreement to exceed, the municipality should not be allowed to deny the application.~~") and substituted with "Municipalities should not be able to stop the application process because the developer is offering more than the standards call for." Under Conflict of Interest on page 6, the following sentence should be added after the second sentence: "He also says that any opinions regarding the standards are his and not necessarily those of the Board." Additionally, the seventh sentence of the same paragraph should be amended to read as follows: "DAG Costill said he sees no conflict of interest with the Chairman's Board members' professional activities." Chairman Kirkpatrick asked if there were any other corrections to the minutes. There were none. *Mr. Frank Doyle made a motion to approve the minutes as amended and Ms. Leslie McGowan seconded it; the vote was unanimous.*

REQUEST FOR ATTORNEY GENERAL OPINION

Chairman Kirkpatrick stated he has been informed by Deputy Attorney General Lauren Corriero that the request for an opinion from the Attorney General's office on the conflict-of-interest issue raised at the last meeting needs to be formally submitted in a letter on Department of Community Affairs (DCA) letterhead. Mr. William Connolly, Vice-Chair of the Board, agreed to do this.

OLD BUSINESS

- A. Status of the Special Area Standards Application for the Township of Harding, Morris County:
The outstanding items on the special area standards application for the Township of Harding are: (1) initial abstraction for depression storage and (2) composite curve numbers. Harding Township's Engineer, Mr. Robert Fox, has expressed interest in meeting with the Stormwater Management Standards Committee on the first item. Mr. Norman Miller, the consultant recommended to look at these issues, was contacted and submitted a proposal for \$3,000 for a half-day meeting. It was noted that Mr. Joseph Skupien of the Somerset County Engineering Department (a subordinate of Mr. Amorosa) seems to think he has answers to

both issues. Mr. Amorosa agreed that Mr. Skupien could be of assistance. An analysis will be done and presented to the Committee. The issue is the technical method that should be employed to arrive at the number; this works from the rationale end. Mr. Michael Baier spoke on the composite curve numbers. It was noted that the use of these numbers should make facilities smaller. Chairman Kirkpatrick reminded the Stormwater Management Standards Committee that it needs to appoint a new chairman before its next meeting.

- B. Follow-Up on the Special Area Standards Approved for the Township of Stafford, Ocean County: Mr. Baier explained that the New Jersey Department of Environmental Protection (DEP) has met with the Township of Stafford and agreed to grant an individual permit for all infiltration structures in the municipality. This will be done in late April or early May 2002. Chairman Kirkpatrick asked if this could be applied to adjacent towns in the same drainage basins. Mr. Baier replied that that would be handled through the DEP's Phase II municipal permits as part of the municipal stormwater permit process.

NEW BUSINESS

Assignment to Committees of Residential Site Improvement Standards 2002 Code Change Proposals:
The code change proposals received by the DCA were referred to the following committees for consideration:

SUBMISSION BY	DATED	CODE CHANGE PROPOSAL	SIAB COMMITTEE REFERRED TO
Gerald D. Philkill, P.E., Municipal Engineer Studer & McEldowney, P.A.	08/27/01	Concrete type to be used for sidewalk construction	Streets and Parking Standards
Joel A. Kobert, Esquire Law Offices of Courter, Kobert, Laufer, & Cohen	10/16/01	Updating the edition of the American Association of State Highway and Transportation Officials' <u>A Policy on Geometric Design of Highways and Streets</u> that is referenced in the standards for sight triangles	Streets and Parking Standards
Robert C. Kirkpatrick, Jr.	11/02/01	Spacing of stormwater inlets	Stormwater Management Standards
Randall Scheule, PP/AICP, Director Planning and Community Development City of Ocean City Cape May County	12/03/01	Parking standards for duplex development	Streets and Parking Standards
Robert C. Kirkpatrick, Jr.	12/06/01	Retention volume requirements for the water-quality storm	Stormwater Management Standards

Mr. Peter Reinhart noted that the February 28th Board meeting will be the first public meeting on proposed changes to the Residential Site Improvement Standards.

RESOLUTIONS

- A. Resolution for Former Board Member Gregory C. Fehrenbach:
Chairman Kirkpatrick read the resolution for former Board Member Gregory C. Fehrenbach. *A motion to approve was made by Mr. Reinhart and seconded by Mr. Amorosa; all were in favor.*
- B. Resolution for Former Board Member Harvey S. Moskowitz:
Chairman Kirkpatrick read the resolution for former Board Member Harvey S. Moskowitz. *A motion to approve was made by Mr. Reinhart and seconded by Mr. Connolly; all were in favor.*

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Mr. Amorosa and seconded by Mr. Reinhart; all were in favor. The meeting was adjourned at 10:12 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board