

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of May 19, 2016

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

ATTENDANCE

Board Members:

Joseph E. Doyle, Chair
Joseph Femia
Valerie Hrabal
Phyllis Marchand
Elizabeth McKenzie
Thomas Olenik
Edward M. Smith
Janice Talley

DCA Staff:

Amy Fenwick Frank
John Lago

Guests:

Frank Minch	Department of Agriculture
Gabriel Mahon	Department of Environmental Protection
Tim Douth	Department of Environmental Protection
Kelley Curran	NJ Highlands Council
Maryjude Haddock-Weiler	NJ Highlands Council

CALL TO ORDER

Joseph Doyle, Chair of the Site Improvement Advisory Board, called the meeting to order at 10:13 a.m.

OPEN PUBLIC MEETINGS ACT

Chairman Doyle announced that, in accordance with the Open Public Meetings Act (P.L. 1975, chapter 231), notice of the time, date, and place of this meeting was given to the Secretary of State of New Jersey, The Star-Ledger of Newark, The Asbury Park Press, The Press of Atlantic City, and The Courier-Post of Camden.

ROLL CALL

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

APPROVAL OF MINUTES

Chairman Doyle asked whether there were any corrections to the minutes of the meeting of December 17, 2015. There were none. A motion to approve the minutes was made by Ms. McKenzie and seconded by Ms. Talley. All were in favor.

COMMITTEE REPORTS

A. Exceptions Committee – There was no committee report. Chairman Doyle said he wants to remind municipalities and developers of the process they must go through to report exceptions to the Residential Site Improvement Standards (RSIS). He described a draft of an article on the exception process that specifies when notices must be sent, who should send them, and what they must say. The article also describes the kinds of exceptions the Site Improvement Advisory Board (SIAB) has received to date. In his view, the municipality should be responsible for sending copies of resolutions that clearly notify the Board of exceptions. Ms. McKenzie agreed. She said the simplest solution is to have this information in the resolutions. They must include the reasons for the variations. Mayor Marchand endorsed the idea of an article in *New Jersey Municipalities*, the magazine published by the NJ League of Municipalities. It was agreed that the easiest and least costly way to get this information is to require planning board secretaries to send copies of resolutions of approval. Ms. Hrabal noted the rules call for agreements to exceed to be sent by developers or applicants. Any change would need to be codified. Ms. McKenzie suggested that a written consent could be included with the resolution. Chairman Doyle asked the committee to meet to discuss these ideas and make recommendations to the Board.

OLD BUSINESS

A. Update on the Department of Agriculture's Soil Compaction Rules

Frank Minch from the Department of Agriculture and the State Soil Conservation Committee summarized progress on the soil compaction rules. Work on them took four years. Two chapters from the original proposal, land grading and soil erosion, were remanded by the Governor's office back to the Department of Agriculture and Board for review and revision because they were deemed too costly. Changes were made to make them more cost effective, and therefore, consistent with the enabling legislation.

In early February, a draft was sent to the Governor's Office for review. The Governor's Office reached out to the New Jersey Builders' Association (NJBA) and received a letter of support. Chairman Doyle noted Ms. Hrabal represented the Board on the technical advisory committee that revised the standards. Ms. Hrabal said cost and benefits were a big sticking point with the top soil and land grading standards. NJBA quantified the

revised proposal and found it reduced the cost of remediation from about \$16,000 per acre to about \$2,000 per acre.

Mr. Minch said the revised rules allow developers more options for testing soil conditions. They also broaden areas exempt from the measures. The proposed amendments await approval at the Governor's Office. In response to a request for copies of the letters of support, Mr. Minch said he would send the NJBA letter to the Board through staff.

Chairman Doyle said the Board will provide comment on the new proposal if any alarm bells are sounded. He added the key concern about costs appears to have been addressed. He warned there may still be concern about whether the benefits from soil remediation are lasting. In response to a question from the Chairman as to whether the RSIS reference the soil erosion rules with a specific date, Mr. Lago stated they do not because the RSIS do not trump State regulations.

Chairman thanked Mr. Minch. Mayor Marchand thanked Ms. Hrabal for her time and effort on the advisory board that reviewed the measure.

NEW BUSINESS

A. DEP proposal to amend *Stormwater Best Management Practices Manual*

Chairman Doyle commended Ms. Hrabal for her time and insights on a committee that was created to help the NJ Department of Environmental Protection (DEP) revise its stormwater Best Management Practices (BMP) Manual. He invited DEP representatives to address the Board on the technical manual.

Gabriel Mahon from the Division of Water Quality said that a significant portion of the BMP manual already was revised. Since 2010, seven chapters were either added or re-written. DEP revised four chapters in early in 2016. Most of the changes were relatively minor, dealing with format or simply clarifications of existing design, construction, and maintenance standards. These changes were posted for comment on the DEP website and then incorporated in latest edition of the manual.

Mr. Mahon said DEP has two more BMPs under review. The first deals with pervious pavement, an existing BMP. The second is an entirely new measure, blue roofs. DEP posted drafts of both BMPs. Comments on pervious paving were received from seven entities. As a result, a meeting was scheduled with the commenters and Department staff, as well as representatives from the New Jersey Builders Association. Following this meeting, the standards will be revised and posted on the DEP website. This same process will be used for future revisions.

The DEP will hold similar meetings to focus on specific BMPs. These meetings will have representatives from sister agencies. They also will include other participants,

designers, and advocates. The composition of those invited to comment on draft standards will vary by BMP, depending on the expertise and interest of the participants.

Ms. Hrabal described the old stakeholder process DEP used for the BMP manual. It was a large standing committee of engineers, environmental advocates, State administrators, and others. She represented the Board on this committee. The last time it met, however, was January 2012.

Mr. Mahon said DEP replaced this committee with smaller, more focused groups because the larger stakeholder committee took too long to revise the manual. By having smaller groups meet more frequently, DEP hopes to step up the pace of changes.

Ms. Hrabal said one of the goals of the Board and its enabling legislation is to recommend rules that make the residential development process more predictable. There is a chance that, if DEP revises the manual at too fast a pace, there will be “rulemaking by internet.” The RSIS references a specific (2004) edition of the BMP manual. It has referenced updated BMPs as they were reviewed and revised by the DEP. Each amended BMP has its own publication date. But the Board was kept involved in the process to change these measures. She added that the RSIS gives the BMP manual the weight of rule.

Mr. Mahon said DEP views the manual as a guidance document. Municipalities are not required to follow it. DEP does not have to follow the Administrative Procedure Act process when it updates and changes BMPs. There was discussion as to how the RSIS should deal with revisions to the BMP manual. Ms. McKenzie said the RSIS should either be revised to reference and include the latest changes or there should be a statement that emphasizes these measures are guidance only.

Ms. Hrabal said DEP reviewers don’t treat the document as advisory. They require designers to use the latest version. This can make reviews unwieldy and less predictable. She also noted DEP stormwater management and coastal and Flood Hazard Area Control Act rules are scheduled for major revision. SIAB must follow these changes, too, so the RSIS remain consistent with DEP requirements.

Chairman Doyle thanked Mr. Mahon for the briefing. Mr. Mahon said he was happy to answer any questions and DEP would continue to be available for the Board.

B. Notice of *De Minimis* Exception – Springfield Township, Burlington County

Discussion then turned to a notice of a de minimis exception from Springfield Township, Burlington County. It dealt with stormwater management. Mr. Mahon commented that DEP rules have an exception process that is different from the RSIS. If a designer or developer can’t comply with a stormwater requirement, the DEP rule requires some form of mitigation. This can be either on or off site.

A draft of a letter to Springfield Township, Burlington County was shared with the Board. It acknowledged the notice of a stormwater exception. Ms. McKenzie suggested the

draft be revised to remind both the developer and the reviewer of the mitigation process in the DEP rules. It was also suggested that the letter to the municipality on this exception should state that the DEP requirements are triggered if the project in question is “major development” as defined in the stormwater management rules.

PUBLIC COMMENTS

There were no comments from members of the public.

BOARD MEMBER COMMENTS

Chairman Doyle proposed that meetings be scheduled quarterly rather than monthly and that the Board not meet in the summer unless there is something urgent. If there is an urgency, then the Board would have the ability to meet on a monthly basis. Pending matters also could be referred to the appropriate committee(s). A motion was made by Ms. Hrabal and seconded by Ms. McKenzie. The quarterly meetings will be held in March, June, September, and December, beginning at 10 a.m. The next meeting will be held in September. All were in favor.

Chairman Doyle also mentioned the need to update the rules and to put a fresh date on the booklet. He noted that the last hard copy was printed in 2008, but indicated that an online version would be acceptable.

There were no further comments from Board members.

ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 11:26 a.m.

Respectfully submitted,

Amy Fenwick Frank
Secretary to the Board