



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
STATE PLANNING COMMISSION
OFFICE OF SMART GROWTH
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JON S. CORZINE
Governor

JOSEPH V. DORIA, JR.
Commissioner

BENJAMIN SPINELLI
Executive Director & Secretary

**New Jersey State Planning Commission
Plan Implementation Committee**

**Minutes of the Meeting held February 6, 2008
Mary Roebling Building
Trenton, New Jersey**

CALL TO ORDER

Chair John Eskilson called the meeting of the Plan Implementation Committee to order at 9:35 a.m.

Committee Members Present

John Eskilson, Chair, Public Member
Mayor Shing-Fu Hsueh, Public Member
Kenneth Albert, Public Member (arrived late)
Tom Michnewicz, Public Member
Jong Sook Nee, Governor's Office Representative
Liz Semple, Representative of Commissioner Lisa Jackson, Department of Environmental Protection
Brent Barnes, Representative of Commissioner Kris Kolluri, Department of Transportation
Roberta Lang, Representative of Secretary Charles Kuperus, Department of Agriculture

Committee Members Not Present

Commissioner Joseph V. Doria, Jr.

Others Present

Ben Spinelli, Executive Director, Office of Smart Growth (arrived late)
Karl Hartkopf, Planning Director, Office of Smart Growth
Joy Farber, Chief Counsel and Policy Director, Office of Smart Growth
Danielle Esser, Policy Advisor, Office of Smart Growth
Daniel P. Reynolds, Deputy Attorney General, Division of Law
Bernard McLaughlin, Representative of Treasurer Rousseau, Department of Treasury

APPROVAL OF MINUTES

Chair Eskilson asked for a review and approval of the minutes. Tom Michnewicz motioned to approve the minutes and Roberta Lang provided a second. The group voted to approve minutes from meeting held on October 24, 2007.



CHAIR' S COMMENTS

Chair Eskilson had no comments at this time.

EXECUTIVE DIRECTOR'S REPORT

The Executive Director was attending another meeting, and in his absence, Karl Hartkopf, Planning Director, provided the Executive Director's report, regarding recent meetings with prospective petitioners to discuss plan endorsement as well as the status of petitions for plan endorsement (see attachment).

PRESENTATION & DISCUSSION

Discussion of State Agency Responsibilities for Opportunities and Constraints Assessment

Joy Farber, Chief Counsel and Policy Director, Office of Smart Growth

Joy Farber provided an overview of the state agency responsibilities with regard to the Opportunities and Constraints Assessment as described in the memo that was distributed (see attachment).

Specifically, the Office of Smart Growth requested that the state agencies provide the Office of Smart Growth with the respective opportunities and constraints information in digital format within 30 days of OSG providing notice of receipt of a self-assessment report. This will ensure that OSG will be able to provide a petitioner with an Opportunities and Constraints Assessment within 45 days of providing notice of receipt of a self-assessment report.

John Eskilson asked if there would be a state agency penalty for missing this 45-day deadline.

John Eskilson also asked about the Water Quality Management Plan protocol indicated on the memo.

Liz Semple responded that the WQMP protocol is based upon clipping environmental features as outlined in the environmental constraints review.

John Eskilson asked about how this date will be used by a municipality.

Joy Farber responded that this data is meant to be used to inform the community's visioning process so that they are aware of any opportunities and constraints to moving forward with growth plans.

Committee Comments on State Agency Responsibilities for Opportunities and Constraints Assessment

There were no committee comments at this time.

Public Comments on State Agency Responsibilities for Opportunities and Constraints Assessment

Jay Corbalis of NJ Future commended the OSG and the state agencies for their hard work on implementing the plan endorsement process. Jay Corbalis posed a question of what would happen if the information provided by the state agencies is in conflict with smart growth principles or existing plans.

Eric Snyder, Sussex County Planning Director, commented that build-out methodologies should be the same among the various state agencies and should have timeframes.

Karl Hartkopf responded that it would be difficult for OSG to calculate a build-out with time intervals. Additionally, the build-out that the OSG is producing for the Opportunities and Constraints Assessment is

meant to provide municipalities with a picture of the future based on current zoning or TREND and is not meant to be a firm build-out analysis.

Mirah Becker with the Middlesex County Planning Department asked how the municipalities should be analyzing the information provided to them as part of the Opportunities and Constraints Assessment. Mirah Becker asked if the municipalities will receive a report or just raw data as part of the Opportunities and Constraints Assessment.

Danielle Esser responded that the information that is provided by the state agencies as part of the Opportunities and Constraints Assessment is meant to simply inform the community visioning and that there will not be substantive analysis provided at this point. This analysis is more cumbersome and is done at a later stage of the process. After the Vision Statement is submitted with accompanying documents, the Office of Smart Growth and the state agencies begin a comprehensive consistency review of the petition for consistency with the State Plan. The State agencies have 90 days to conduct this review, and have an additional 30 days when working with a municipality that is seeking to reestablish expired centers.

Tim Dillingham, Executive Director of the American Littoral Society and a member of the Highlands Council, stated that the State should be definitive about the impact of the data and that the State can do this analysis. Tim mentioned that he is concerned about the lack of acknowledgement of regulations, for example regional planning areas.

Liz Semple responded that the information that is provided is meant to guide municipalities with regard to planning. Liz mentioned that the DEP can add beaches, dunes, CAFRA impervious cover, etc.

Helen Heinrich of the New Jersey Farm Bureau asked whether 30 days would be enough time for the state agencies to provide the requested information for the Opportunities and Constraints Assessment. Helen Heinrich commented that with a limited period time, the state agencies would only be able to provide raw data and not analysis. Helen Heinrich asked whether the state agencies would like to provide only raw data or data with analysis. She also asked about the agriculture profile to determine if adequate information was being included.

Roberta Lang responded that the agriculture profile does in fact include a tremendous amount of information, but for the purpose of the memorandum, this information was collapsed into the “agriculture profile.”

John Eskilson asked whether action was needed on the Opportunities and Constraints memorandum or whether it meant to inform the State Planning Commission of state agency responsibilities for the Opportunities and Constraints Assessment.

Joy Farber responded that no action was needed on this issue at this time.

Discussion of Rule proposal regarding designated centers

*Joy Farber, Chief Counsel and Policy Director, Office of Smart Growth
Danielle Esser, Policy Advisor, Office of Smart Growth*

Ben Spinelli provided an overview of the center expiration rule proposal (see attachment). Ben Spinelli stated that there was a request made for our office to be able to work with municipalities with expiring or expired centers sooner, and therefore this proposal was put together to be able to provide temporary centers to municipalities with centers that expire in 2008, so long as those municipalities are working with the Office of Smart Growth and the state agencies as described in the rule proposal. Ben Spinelli indicated that this was really a minor change and only a small number of municipalities will actually take advantage of this provision.

Public Comment on Rule proposal regarding designated centers

Amy Sarrinikolaou, Planner with CMX, stated that she is the planner for many coastal communities, and asked about the Commission's position on working with towns that are diligently working to meet the deadlines of the rule proposal but may need some flexibility.

John Eskilson responded that the Office of Smart Growth and the State Planning Commission had demonstrated maximum flexibility and has been working with towns to-date.

Jeff Tittel, Executive Director of the NJ Sierra Club, expressed concerns about providing any center extensions. The original intent of allowing centers to sunset was to bring these municipalities back to the table to do the necessary planning work. He questioned why the Commission would be interested in helping towns with expiring centers to keep them for a longer period of time. He commented that some centers have violated their Planning and Implementation Agendas and action has not been taken to revoke their center designation status. He is also concerned that by allowing centers to be extended, we will also be expediting certain projects to move forward without the proper planning being done.

Liz Semple stated that the DEP was originally hesitant about this rule proposal, but has agreed since the environmental features will be able to be clipped out of any temporary reestablished center.

Eric Snyder, Sussex County Planning Director, commented he supports both Liz and Ben. He feels that allowing centers to sunset without an option for temporary reestablishment would not be valid because the fact that the rules and guidelines have been in flux for a while and municipalities did not have clear direction of how to proceed during this time. He echoed that flexibility is what is needed. Eric Snyder also mentioned that the one year extension would be difficult for municipalities to meet due to onerous public notice requirements of the State Planning Rules.

Tim Dillingham, Executive Director of the American Littoral Society, commented that the temporary reestablishment of centers may be the option with the minimal potential for harm, using what happened with the temporary reestablishment of CAFRA centers in 2005, where very few towns have been endorsed. However, he suggested that language in the rule regarding the modification of center boundaries be changed from "may be modified" to "may be modified as appropriate or necessary" or link in some way to the Coastal Zone Management Rules based upon review of data and relevant information.

Deputy Attorney General Daniel Reynolds stated that a rule can suggest coordination among state agencies, but cannot bind agencies through a rule regarding a statute. The DEP maintains independent judgment but also works closely with state agencies.

Liz Semple recommended amending the language with regarding to amending center boundaries from "may be modified" to "will be modified" based on review of relevant data and information.

John Eskilson disagreed and suggested that the language remain as it is.

Deputy Attorney General Daniel Reynolds stated that the rule summary will describe the intent of the rule which may address some of the concerns. There will also be a 60-day public comment on the rule proposal.

Liz Semple commented that this rule proposal should actually not be characterized as a minor change since it affects CAFRA impervious cover limits.

Jeff Tittel suggested language of "shall where appropriate amend center boundaries" based upon relevant data and information.

Kenneth Albert stated that there is an obligation of the state agencies to consult with one another on issues with regard to center boundaries. He then suggested language for the delineation of temporary center boundaries of “may in consultation with state agencies” amend center boundaries based upon review of relevant data and information.

John Eskilson stated that he thought that that was already implied throughout the plan endorsement process and therefore was inclined to keep the wording the same.

Liz Semple stated that the rule summary can clarify the intent of plan endorsement, for municipal plans to be consistent with state agency regulations.

Mirah Becker of the Middlesex County Planning Department asked a general question about cross-acceptance, about whether the Commission was inclined to release and adopt the new State Plan Policy Map separate and apart from the new State Plan so that people can begin to use the new map, and since it seems that it will take time for the new Plan to be written.

Ben Spinelli responded that this will not be happening. Also, he mentioned that the OSG has recently secured money to fund the writing of the new State Plan. He also mentioned that whether or not the new Map is available, development on the ground will be treated based on reality. Therefore, people need to be mindful of environmental constraints whether or not they are currently on the State Plan Policy Map.

Committee Action

Hearing no more individuals interested in providing public comment on this agenda item, John Eskilson closed the discussion to this item. Kenneth Albert motioned to move the draft rule proposal regarding designated centers to the SPC for action. Mayor Shing-Fu Hsueh provided a second. The Committee unanimously approved moving the draft rule proposal regarding center expiration to the SPC in February.

General Committee Comment

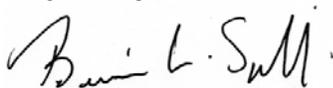
Mayor Shing-Fu Hsueh stated that there should be one set of numbers for projections for the Opportunities and Constraints Assessment. There should also be a consistent way of handling information and zoning issues with communities.

General Public Comment

Barbara Palmer of the NJ Association of Environmental commission thanked the Committee for the in-depth discussion of the agenda items, for the abundance of public members at the meeting, and for the news that the update of the State Plan will be moving forward. She also announced that ANJEC is providing grants for smart growth planning, including plan endorsement related items. The deadline for application is March 31, and she will leave brochures with OSG to distribute.

Hearing no more individuals interested in providing public comment, John Eskilson requested that the meeting be adjourned.

Respectfully Submitted,



Benjamin L. Spinelli
Secretary and Executive Director
Dated: 2/19/08

**State Planning Commission
Plan Implementation Committee
Executive Director's Report
February 6, 2008**

PLAN ENDORSEMENT UPDATE

Since the last PIC meeting, we have held pre-petition meetings with

November:

1. Avalon Borough, Cape May County – Nov. 20
2. Eatontown Borough, Monmouth County – Nov. 20
3. Morristown, Morris County – Nov. 27

December:

4. Byram Twp, Sussex County – Dec. 4
5. Oxford Twp., Warren County – Dec. 4
6. Mendham Borough, Morris County – Dec. 11
7. Metuchen Borough, Middlesex County – Dec. 11
8. Galloway Township, Atlantic County – Dec. 18

January:

9. Hopewell Township, Mercer County – Jan. 15
10. Neptune Township, Monmouth County – Jan. 15
11. Long Branch City, Monmouth County – Jan. 22

February:

12. Cranbury Township, Middlesex County – Feb. 5
13. Hopatcong Borough, Sussex County – Feb. 5

OSG is preparing the following Consistency Reports to the SPC:

- Ocean City (Cape May): by **Feb. 13**
- Logan Township (Gloucester): by **Feb. 25, 2008**
- Woolwich Township (Gloucester): by **Feb. 28**
- Cape May Point Borough (Cape May): by **March 7, 2008**

NEW PLAN ENDORSEMENT

Self-assessment Reports

- OSG has received a formal Self-assessment report from Newton Town (Sussex).
- OSG will receive the final documents for the formal submission from Hopewell Township (Cumberland) Self-assessment in the near future. .

On Tuesday, Feb. 5, OSG started the 45-day clock to prepare the state agency Opportunities and Constraints Assessment for Newton.

TODAY'S AGENDA

Discussion of State Agency Opportunities and Constraints

- We have distributed a summary document that identifies the minimum information that each state agency has agreed to State Agency Opportunities and Constraints Assessment.
- This information is meant to be used by the petitioner to inform the Community Visioning process so that a petitioner can have a realistic vision that acknowledges the facts – the opportunities and constraints in a given jurisdiction.
- OSG requests that state agencies provide information that they have agreed to provide for the assessment to OSG within 30 days of OSG providing notice of receipt of a formal Self-assessment report.
- This will enable OSG to provide the petitioner with the Opportunities and Constraints Assessment within 45 days of OSG providing notice.

Discussion of Period of Endorsement Rule Proposal

- In October, the SPC approved a rule proposal to provide municipalities with expiring centers, cores and nodes an opportunity to reestablish an expiring center, core or node on the condition that the municipality commits to undertake the new plan endorsement process.
- Temporary Centers would have been granted upon transmission of a Certificate of Eligibility by OSG to the Petitioner.
- However, after approval of the proposals, municipalities with expired centers raised concerns with the State Planning Commission regarding the length of time it would take under the proposal to reestablish a designated center.
- In response to these concerns, a revision to the previous Period of Endorsement rule proposal has been developed to address the problems that were being encountered by municipalities that are currently engaged in the plan endorsement process and for those

communities that have indicated that will plan to become engaged in the new plan endorsement process.

New Period of Endorsement Rule Proposal

The new rule proposal is broken down into two tracks, one for municipalities with centers, cores or nodes that expire in 2008, and one for centers, cores or nodes that expire in 2009 and 2010. A summary of the proposal is provided below.

For Centers, Cores and Nodes that expire in 2008:

- For municipalities with centers, cores and nodes that expire in 2008, the rule proposal provides a two-step process.
- The rule proposal provides an opportunity for a temporary reestablishment of a center, core or node for one year upon submission of a Municipal Self Assessment Report, and an extension for up to two years upon transmission of a Certificate of Eligibility by OSG to the Petitioner.
 - *(Prior to submitting Municipal Self Assessment Report, petitioner must also attend a pre-petition meeting and appoint a Plan Endorsement Advisory Committee).*
- Boundaries of an expired center, core or node may be modified as appropriate before reestablishment based on a review of the most up-to-date state agency data and mapping and a petitioner's planning documents.
- Modifications to the boundaries, if any, shall be considered by the State Planning Commission meeting following submission of a Self-assessment.
- An expired center, core or node will be reestablished immediately upon approval by the SPC of the boundaries of the reestablished center, core or node.

For Centers, Cores and Nodes that Expire in 2009 and 2010

- For municipalities with centers, cores and nodes that expire in 2009 and 2010, the rule proposal provides an opportunity for a center, core or node to be extended for a period of two years from the date of the expiration of the center, core or node, or until endorsement by the State Planning Commission, whichever comes first.
- In order receive an extension of a temporarily reestablished center, core or node, a petitioner must receive a Certificate of Eligibility from the Office of Smart Growth before the expiration of the center, core or node.

- The boundaries of the reestablished center, core or node may be modified at this time as a result of the state agency Opportunities and Constraints Assessment and the state agency consistency review.
- The two-year extension shall become effective upon transmittal of the Certificate of Eligibility by the Executive Director of the Office of Smart Growth to the petitioner.

For All Municipalities that Participate in this Process

- Committing to complying with the plan endorsement process and a good faith effort are the foundation to providing center, core or node extension or reestablishment.
- Any extension of a center, core or node designation will be conditioned on a petitioner's compliance with the terms of a Memorandum of Understanding and an Action Plan between the petitioner and the State Planning Commission.
- Failure to comply with the terms of the Memorandum of Understanding and Action Plan may be cause for the revocation of a reestablished or extended center, core or node.



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BENJAMIN SPINELLI
Executive Director & Secretary

MEMORANDUM

TO: State Planning Commission Members

FROM: Benjamin L. Spinelli, Executive Director and Secretary

DATE: January 31, 2008

RE: **State Agency Responsibilities for the Opportunities and Constraints Assessment**

As required by the draft State Planning Rules and the Municipal Plan Endorsement Guidelines approved by the State Planning Commission, within 45 days of receipt of a self-assessment report, the Office of Smart Growth, with assistance from the relevant state agencies, will provide a petitioner with an Opportunities and Constraints Assessment of development opportunities, infrastructure and natural resources.

The Opportunities and Constraints Assessment will compare the findings and conclusions of the of the petitioner's self-assessment report with the most up-to-date regional and statewide data to determine whether trend growth is sustainable based on the resources available in the municipality, region and the State. Information provided as part of the Opportunities and Constraints Assessment is meant to be used to inform and guide the Community Visioning Step of the plan endorsement process, in order for the visioning process to produce a realistic vision for the future.

In order to ensure that the Opportunities and Constraints Assessment can be provided to a petitioner within 45 days, the Office of Smart Growth requests that state agencies provide respective agency Opportunities and Constraints information to OSG in digital format within **30 days** of OSG providing notice of receipt of a self-assessment report.

Below is a summary of information that each state agency has agreed to provide:

Office of Smart Growth

- Build-out analysis based on current zoning minus regulated resources (preserved open space, surface water, wetlands)

Department of Environmental Protection

- Water and Wastewater Capacity Analysis, including surplus/deficit summary table(s), map of sewer service area, map of HUC 11 zoning requirements.

- Environmental constraints review, including Threatened and Endangered Species Habitat (T & E), National Heritage Priority Sites (NHPs), C1 Streams and buffers, wetlands and flood prone areas;
- Water Quality Management Plan protocol
- Regional planning areas (e.g. Highlands, Pinelands, Meadowlands, CAFRA, etc.)
- Potential Contamination/ Environmental Hazards, including known contaminated sites, brownfields development areas (BDAs) and landfills.
- Preserved Lands
- Any significant issues

Department of Transportation

- Access Code – Desirable Typical Section (DTS) and Access Level (AL) of Applicable State Highways
- Congestion Management System Data on Applicable State Highways, including Level of Service (LOS) and Volume/Capacity (V/C) Ratio
- Major Capital Projects/Initiatives and Mitigation Projects on State System
- Designated Transit Villages
- Designated Scenic Byways
- Open Grant Projects
- Corridor Studies
- Public Use/General Aviation Airports
- Rail Freight Lines
- Other Significant Issues

Council on Affordable Housing

- History – 1st, 2nd and 3rd rounds (as applicable)
- Obligation, remaining balances
- Certification status

Agriculture

- Agriculture profile
- Preserved farmland
- Land in farms vs. permanently preserved farmlands with projections
- Soils classification for active agricultural land
- Farmland Assessment Statistics

NJ Transit

- 2000 Transit Score Analysis