



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
NEW JERSEY STATE PLANNING COMMISSION
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JON S. CORZINE
Governor

SUSAN BASS LEVIN
Commissioner

CHRISTIANA FOGLIO
Chair

EILEEN SWAN
Executive Director & Secretary

**New Jersey State Planning Commission
Minutes of the Meeting Held September 20, 2006
Thomas Edison College
Prudence Hall
101 West State Street
Trenton, New Jersey**

CALL TO ORDER

Chris Foglio, Chair called the September 20, 2006 meeting of the New Jersey State Planning Commission to order at 9:45 a.m.

OPEN PUBLIC MEETINGS ACT

Daniel P. Reynolds, Deputy Attorney General announced that notice of the date, time and place of the meeting had been given in accordance with the Open Public Meetings Act.

ROLL CALL

Members Present

Bernard McLaughlin, Designee for State Treasurer, Bradley Abelow, Department of Treasury
Kenneth Albert, Public Member
Adam Zellner, Designee for Commissioner Lisa Jackson, Department of Environmental Protection
Brent Barnes, Designee for Commissioner Kris Kolluri, Department of Transportation
Monique Purcell, Designee for Secretary Charles Kuperus, Department of Agriculture
Marge Della Vecchia, Designee for Commissioner Susan Bass Levin, Department of Community Affairs
Debbie Mans, Smart Growth Ombudsman
Edward McKenna, Jr., Public Member
George Pruitt, Public Member
Christiana Foglio, Chair and Public Member

Not Present

John Eskilson, Public Member
Michele Byers, Public Member
Marilyn Lennon, Public Member
Thomas Michnewicz, Public Member
Lauren Moore, Manager, Office of Business Advocate & Information, Commerce & Economic
Growth Commission

Others Present (See Attachment A)



PLEDGE OF ALLEGIANCE

Chair Foglio asked everyone to stand for the Pledge of Allegiance.

APPROVAL OF MINUTES

Chair Foglio asked for a motion to approve the minutes of the July 19, 2006 meeting. Edward McKenna made the motion and George Pruitt seconded the motion. Chair Foglio asked for a roll call vote. Ayes (10): Bernard McLaughlin, Kenneth Albert, Adam Zellner, Brent Barnes, Monique Purcell, Marge Della Vecchia, Debbie Mans, Edward McKenna, George Pruitt and Chris Foglio. Nays (0). Abstains (0).

Dave Hojsak, Burlington County Planning Department asked for clarification on the comments from Dan Reynolds, DAG with regard to the approved mapping changes. Mr. Reynolds responded that he would be providing a written response to questions raised prior to the next State Planning Commission meeting.

CHAIR'S COMMENTS, Christiana Foglio, Chair

Chair Foglio postponed her comments for later in the meeting.

EXECUTIVE DIRECTOR REPORT, Eileen Swan, Executive Director

Ms. Swan provided an update on the status of Cross-acceptance and Plan Endorsement outlining where the CARFA municipalities stood with regards to the Policy Directive and Memorandum of Understanding. Ms. Swan explained that when the Policy Directive was approved in April it allowed additional time for the CAFRA municipalities to work through the Plan Endorsement process. The towns that signed the MOU and agreed to the Action Plan had continued to make progress. Those towns that chose not to sign the MOU still wanted to work with OSG towards achieving endorsement. However, the office has found that it is difficult for the municipalities to reach the established deadlines. Because of these difficulties she proposed that the Commission allow for a relaxation of the timelines provided in the State Planning Rules, to allow the petitioner an adequate amount of time to accomplish the tasks outlined in the action plans, provided that the petitioner continues to work with the state agencies towards achieving Plan Endorsement. She further explained that this could be permitted under the provision that the petitioner waives its right to the timelines provided by the State Planning Rules, through an agreement between the petitioning entity and the Office of Smart Growth, as approved by the State Planning Commission. This relaxation would allow for specific tasks that would be outlined in an Action Plan with a specified and agreed upon timeline to be reached.

Ms. Swan explained that she wanted to provide the Commission an opportunity to review the concept and receive public comment on the proposal. She further explained that she would like to present a Resolution at the next meeting for the Commission to take action on if they agreed with the proposal. Ms. Swan stressed that the relaxation of the timeframes would help a municipal or county to effectively achieve Plan Endorsement.

Chair Foglio asked for comments from the Commission members.

Edward McKenna commented that he felt this proposal would be a good move forward.

Ken Albert questioned if the proposal would require a rule change and would COAH applications be affected. Ms. Swan commented that the office has had conversations with COAH and that there would have to be a rule change eventually and that the office is working to that end for a revised process for Plan Endorsement. However this would help current applicants. She further noted that the Office has not received any Plan Endorsement applications from towns seeking COAH certification to date.

Ms. Swan also noted that the Office is proactively reaching out to municipalities that have centers expiring within the next few years.

There were no further comments at this time from the Commissioner members. Chair Foglio asked Ms. Swan to report on the Plan Implementation Committee in the chair's absence.

COMMITTEE REPORTS

Plan Implementation Committee

Ms. Swan reported that at the July 26th PIC meeting there was a discussion on Regional Consistency Requirements for Plan Endorsement. At the August 23rd meeting there was discussion on the Stafford Township Petition and Sussex County Petition. She noted that both received positive feedback. However, during the Sussex petition, there was much discussion regarding the timing of the petition and the timing of the Highlands Regional Master Plan.

Plan Development Committee

Ms. Swan reported that on August 16th the PDC met to discuss the Statewide Issues. The meeting was well-attended and there were a lot of constructive comments provided by the public and interested parties. She also noted that the Office is working on putting comments received on the statewide issues on the OSG website.

Chair Foglio noted that there had been previous discussions regarding the negotiation committee for Cross-acceptance. But those discussions were not formalized in a resolution and that the Commission would be voting on a resolution to formalize the committee. There was discussion on an issue raised by NJ Future and ANJEC with regard the make up of the committee. It was suggested that at least one public member should serve on the committee. There was a brief discussion on the Committees makeup and that when the negotiation meetings are scheduled that the Commissioners be given advance notice and the geography be taken into account.

Chair Foglio provided clarification on the revised resolution noting that the resolution would be amended to reflect that at least two member of the PDC (for the purpose of the resolution the PDC would include all members of the Commission) and that at least one of the two members of the PDC attending each meeting must be a representative of county/ municipal government or a public member.

Chair Foglio asked for a motion to approve Resolution No. 2006-03 Authorization of Plan Development to Undertake Activities on behalf of State Planning Commission during the Negotiation Phase for Cross-acceptance. Edward McKenna made the motion and it was seconded by Brent Barnes. Chair Foglio asked for a roll call vote. Ayes (10): Bernard McLaughlin, Kenneth Albert, Adam Zellner, Brent Barnes, Monique Purcell, Marge Della Vecchia, Debbie Mans, Edward McKenna, George Pruitt and Christiana Foglio. Nays (0). Abstains (0).

Public Comments

Eric Snyder, Sussex County Planning Department noted he had two issues to discuss. The first being the increasing need for the flexibility of the cross-acceptance process. He noted that it is a matter of concern that everything that deals with in the cross acceptance process be understood to be accurate and to be understood. He explained that a concern of many of his colleagues is going back to towns and explaining how changes happened and how the data that was originally submitted is being handled and whether or not new data can be submitted. He noted that the answers appear to be yes—new data can submitted and it is being handled expeditiously as possible. He further noted that it does add additional time requirements to everyone and it is not easy to dovetail something this significant to other project flows. He felt that Ms. Swan's suggestion was a very good one. And the Commission can count on Sussex to work with them to keep things moving.

Next, Mr. Snyder explained that when Hampton Township originally submitted its application for center designation it was one that was up against a deadline and the town of Newton to which it was appended had some reservations. As part of the discussion the Commission by resolution suggested that there be a two year period of time during which those municipalities would work together to move the process along would be appropriate. The County had agreed also to use a portion of their Smart Growth funds that they were given in 2000 to advance the effort. The four agency effort, Newton, Hampton, Sussex County and Sussex County Community College have been working together and it is taking longer than two years. He further explained that Hampton has requested an extension to that period time and that both Newton and Hampton have supported and set aside additional monies in their budgets by resolution to continue the work. He noted that he understood that the Commission would need to take formal action on extending the deadline in the previous resolution. All four agencies would like to keep their initiatives moving.

Ms. Swan responded that the Office of Smart Growth would provide a report in advance of the next SPC meeting so that the Commission could review it and take action at the October meeting. She indicated that from office's perspective there is an issue with the timing of the expiration and when the extension request was submitted.

Brent Barnes questioned, Mr. Snyder, if he felt that there was substantial and continuing progress to the goal. Mr. Snyder responded, yes. Ms. Swan also noted that the Office had asked the towns to provide information to show that there has been progress to that goal.

Ed Fox, Planning Director, Camden County, noted that he has written some letters regarding the Commission's July 19th action and well as a letter from the freeholder director in consultation with the freeholder director of Gloucester County to the Governor. He explained that he was not present to rehash the issues already outline in his letters but was present because he cares. He noted that it was important to look at credibility and integrity. He feels that the Office of Smart Growth, Commission all the other cabinet offices and counties are putting their credibility on the line by breaking the rules and when the counties are asked to conspire to break the rules their credibility is on line with the local offices. He noted that the Commission members did not get a chance to see the State Plan map and that overnight about 140 square miles went from sewer service areas to non-sewers areas – it might be good – might be bad, but it is not an issue of negotiation it is an issue of plan comparison. Further, the counties and municipalities went through the cross-process and plan comparison and compiled massive documents comparing their plans and maps to the State Plan. This takes time and will not happen within weeks, not within months it will take years. He explained that the some counties do not have the budget or staff to complete the task. Camden and Gloucester County were affected drastically and both are overwhelmed by the amount of changes. He encouraged the Commission to follow the rules. He noted that it appeared that no one from DEP followed the CES criteria that said if something is in the hopper under plan development review it should not get listed as a CES. In addition, landscape projects listed as 1 and 2 are listed on the map as PA5. He stressed that the criteria, standards and rules need to be respected to have integrity. He requested that the Commission follow the rules and to open the Plan again for Plan comparison and not negotiate from a tight schedule that is undoable. He noted that his county has written a letter saying that they can not negotiate in good conscience with rules that are broken.

Chair Foglio noted for clarification that her understanding in terms of landscape data was that landscape data could not be the only element to support any changes that occurred in the map on July 19th.

Mr. Zellner responded that Chair Foglio was correct. And as a point of clarification he noted that he sent the disc out when he was executive director and the very same information simply updated went out previously. He explained that the department went through the process very carefully. He noted that protocols are being put in place for errors to the map with regards to on the ground changes and the counties need to provide DEP with that information. He further noted that towns and counties do have the right to come in and make the argument on those in accuracies.

Mr. Fox responded that he agreed with Mr. Zellner 100%, but the issue is predictability. Predictability means the rules that were established and the counties are being forced to do something in a very short time frame that does not follow the rules. He noted that the DEP has no creditability with a lot of people such as developers or private property owners and it is private property interest that they are looking at and it is about people and people respect the rules.

Chris Sturm, New Jersey Future thanked the Commission for responding to their last minute suggestion on the Resolution which was supported by a number of NGO's. Ms. Sturm commented that the process that was outlined for plan endorsement is terrific and it will add certainties to the process which is needed. She explained that they are concerned about man power issues and the crunch that is coming. She feels that it is great that the agencies are now considering which benefits again need to be offered for Plan Endorsement. She noted that the one benefit that is not offered by a Smart Growth agency is some kind of legal support. She was wondering if the Governor's office was considering talking to the Attorney General's office about what kind of legal support could be offered to endorsed towns that they otherwise wouldn't have, and provide support against lawsuits opposing local plans and ordinances. Ms. Sturm explained that it was in place in the Highlands in terms of legal indemnification shield and in the Pinelands it is as simple as staff support to local governments. She felt that this was one thing that towns want more than anything else. She encouraged the Commission to look at that as it moves through the process. She explained that NJ Future was talking with others and DEP on the water quality management planning rules about how the rules are structured and how to make sure that wastewater planning is done on a regional basis or perhaps a county basis. If it was set up that way it could give a real meaning to a regional petition for Plan Endorsement.

Ms. Swan responded that the office has held Smart Growth Policy Council meetings and the process is being lead by Debbie Mans and herself. She noted that they have had outstanding attendance from the different agencies that have been coming to the meetings and conversations have been held at the last two meetings about the plan endorsement process. By next month the Smart Growth Policy Council expects to hear from the agencies as to what their requirements for PE are and what benefits they are willing to bring.

Ms. Mans noted that she will work with Dan Reynolds on how Executive Order #4 might be able to work in the process.

Mr. Reynolds noted that there was a challenge to Executive Order #4 and the Attorney General's office filed papers with the Superior Court seeking permission to intervene in the case to support the municipality and the Superior Court judge did not allow the request. Mr. Reynolds indicated that he would work with Ms. Mans on the matter.

David Hojsak, Burlington County, questioned DAG, Dan Reynolds as to a time frame when they could expect his opinion regarding the use of the DEP data and your comments regarding the July 19th meeting. Mr. Reynolds noted that his intention was to provide it to the Commission by its next meeting. Mr. Hojsak questioned if he could have it sooner than that. Mr. Reynolds indicated that his opinion would be provided to the Commission by its next meeting.

Mr. Hojsak questioned if the opinion could be posted on the website. Mr. Reynolds responded that anything that is rendered to the Commission is rendered within the context of the attorney client privilege and it is the client's prerogative to decide what they want to do with the advice that is given. There was a brief discussion on this matter. The Commission members indicated that they would not be comfortable with posting the opinion on the web.

With no further comments from the public, Chair Foglio asked for Commissioner reports.

Commissioner Reports

Monique Purcell, Department of Agriculture

Ms. Purcell announced that the SADC would be holding a TDR Forum and Tour on Friday at the Rutgers Eco Complex.

Marge Della Vecchia, Department of Community Affairs

Ms. Della Vecchia announced that the Department of Community Affairs and the NJ Housing and Mortgage Finance Agency next Tuesday and Wednesday were hosting the Governor's Conference on Housing and Community Development. She explained that there was an entire track on development which addresses green building, brownfields, greyfields, solar issues, redevelopment issues and a great selection of panelists.

Ms. Della Vecchia commented briefly on the issue raised with regard to the process and the rules. She noted that she has been involved for five years and prior to that was in Camden County and feels that the State Plan in its prior configuration as good as it tried to be was in fact a document that sat on the shelf. However, incorporating the kind of information the Commission is incorporating now and the level of meetings and cooperation through Debbie Mans office and Ms. Swan in the Smart Growth Action Committee and Task Force we are really getting at the issues of development and smart growth at the highest level that she has experienced. The rules may need to change and be flexible and adjusted so that they reflect the reality of the changing world and she continues to stand behind the process and encourages as much flexibility as possible. The SPC needs to encourage the towns and regions to support the objectives of smart growth, affordable housing and protection of the environment and sustainability.

Ms. Della Vecchia also reported that the DCA was putting together a "road show" in conjunction with the Office of Smart Growth, COAH, Division of Housing and NJHMFA by packaging each agencies programs and benefits and delivering them to the towns and communities.

Edward McKenna commented that sometimes the Commission is so myopic and self critical that it doesn't understand the hard work that it's doing. He noted that he talks to people all over the country and no one is as proactive in areas of planning and smart growth as New Jersey. He feels that we are being proactive in coordination with each agency and that at every meeting there is more and more. He explained that the DCA has been proactive with regards to a site in Red Bank, noting that Red Bank would not have been able to afford the acquisition of the site without assistance from DCA in providing funding. Red Bank will now be able to satisfy close to half of its affordable housing obligation for the next ten years. He also felt that the "road show" was a great idea because people don't now what is out there in terms of resources.

Ms. Swan noted that one of the main objectives in the Governor's Economic Growth Strategy under priority number three was consistency with the State Plan. She urged the Commission members to look at the report which puts the onus on the Office of Smart Growth and the State Planning Commission to make this State Plan the best State Plan that it could possibly be in cooperation with all the State agencies so that there we have credibility as well as predictability.

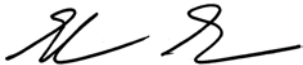
Ms. Swan noted that in light of the discussion of relaxing the rules with regards to the Pan Endorsement timelines, she indicated that the PIC meeting scheduled for next week to address two of the towns in questions, would be canceled. And if indeed we have to address those issues we would address them at the next PIC because she would like to give the SPC the opportunity to act on a resolution to formalize today's discussion if the SPC decides if that is the best way forward.

Brent Barnes, Department of Transportation

Mr. Barnes reported that the Governor announced on Monday a new pedestrian safety initiative that the department was very excited about and would be providing money across a wide range of geography and different types of projects specific to pedestrian safety. He also reported that the department kicked off a new smart growth corridor study which centers on the Edison train station, Route 27 and Route 1 in Edison and there are some great opportunities for Brownfields/Greyfields redevelopment.

With no further comments from the Commission. Chair Foglio asked for a motion to adjourn, the motion was moved by Ed McKenna and seconded by Brent Barnes. All were in favor. The meeting was adjourned at 11:05 a.m.

Respectfully submitted,



Eileen Swan
Secretary and Executive Director

Dated: September 28, 2006