



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

JOSEPH V. DORIA, JR.
Commissioner

BENJAMIN SPINELLI
Executive Director & Secretary

**New Jersey State Planning Commission
Minutes of the Meeting Held July 16, 2008
Thomas Edison College, Prudence Hall
101 West State Street
Trenton, New Jersey**

CALL TO ORDER

Edward McKenna, Chair, called the July 16, 2008 meeting of the New Jersey State Planning Commission to order at 9:47 a.m.

OPEN PUBLIC MEETINGS ACT

Julie Cavanagh, 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

Kenneth Albert, Public Member (arrived 9:48 am)
Robert Bowser, Public Member
James Souder, Designee for Joseph V. Doria, Jr., Commissioner, Department of Community Affairs arrived 9:49 am)
John Eskilson, Public Member (arrived 9:56 am)
Shing-Fu Hsueh, Public Member
Elizabeth Semple, 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
Jong Sook Nee, Smart Growth Ombudsman (arrived 9:53 am)
Bernard McLaughlin, Designee for David Rousseau, State Treasurer, Department of Treasury
Louise Wilson, Public Member
Edward McKenna, Jr., Public Member

Not Present

Michele Byers, Public Member
Marilyn Lennon, Public Member
Thomas Michnewicz, Public Member
Patrick Morrissy, Public Member

Others Present (See Attachment A)

PLEDGE OF ALLEGIANCE

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

APPROVAL OF MINUTES

Chair McKenna asked for a motion to approve the minutes of meeting held June 18, 2008. Mr. Spinelli noted that the minutes needed to be amended to reflect that Michele Putman's presentation was not available for distribution. Commissioner Barnes made the motion to approve the minutes as amended and it was seconded by Commissioner Wilson. Chair McKenna asked for a roll call vote: Ayes (9) Ken Albert, Robert Bowser, Shing-Fu Hsueh, Elizabeth Semple, Brent Barnes, Monique Purcell, Bernard McLaughlin, Louise Wilson, Edward McKenna. Nays (0). Abstains (0).

CHAIR'S COMMENTS, Edward McKenna, Chair

There were no Chair comments at this time.

EXECUTIVE DIRECTOR REPORT, Benjamin Spinelli, Executive Director

Mr. Spinelli reported on the Plan Endorsement activities of the Office since the last meeting. He also noted that he had attended a planning meeting with the Maryland State Planning Department as they were looking to New Jersey for guidance. He also noted that he spoke at the Great Swamp Ten Town annual meeting and at the New Jersey State Bar Association Environmental Forum in Avalon. (Attachment B)

PRESENTATION

Lance Miller, Chief of Policy & Planning, Board of Public Utilities presented on the Draft Energy Master Plan. Following the presentation there was a question and answer period for the Commission members and members of the public. (Attachment C – PowerPoint Presentation)

At this point, Mr. Spinelli noted that he omitted from his Executive Director's report that the Office had recently announced that 35 Smart Future grants had been awarded. The grants were awarded in conjunction with the Department of Agriculture and Department of Transportation to help municipality's complete specific programs associated with Plan Endorsement.

Next, he noted that on the Agenda were draft Action Plans for Sea Isle City, Ocean City and Cape May Point. He explained to the Commission that the action plans were being presented to the Commission for the first time and that he needed authorization to enter into a Memorandum of Understanding with the towns. There were no questions from the Commission members. Chair McKenna asked for a motion to allow Mr. Spinelli to authorize the MOU's. Commissioner Eskilson made the motion and it was seconded by Commissioner Souder. Chair McKenna asked for a roll call vote: Ayes (11) Ken Albert, Robert Bowser, James Souder, John Eskilson, Shing-Fu Hsueh, Elizabeth Semple, Brent Barnes, Monique Purcell, Bernard McLaughlin, Louise Wilson, Edward McKenna. Nays (0). Abstains (0).

COMMITTEE REPORTS

Plan Implementation Committee, John Eskilson, Chair

Commissioner Eskilson noted that he had not report as the committee had not met.

Plan Development Committee, Edward McKenna, Chair

Chair McKenna noted that he would like to hold off on the PDC report until the end of the meeting.

NEW BUSINESS

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

Ms. Farber provided an update on current legislation that may affect the work of the State Planning Commission. She explained that Permit Extension Act had recently been proposed by the legislature. She noted that in her last report the version of the bill that was being considered did not impact the Commission. However, a last minute amendment allowed for the reestablishment of expired SPC center designations as well as permit extensions. She noted that the Permit Extension Act is supposed to be addressing national and local economic downturns. It was noted that she was not sure why center designation needs to be extended in order to accommodate the permit extension act's goals and it was a new development and potentially problematic. The requirement also stipulates that within 30 days of the effective date of the bill, the Commission will be required to extend mainland coastal centers that have been deemed complete by OSG as of March 15, 2007. The bill requires that those centers that fall into the bill would need to be extended within 30 days. She explained that she has been in contact with the Deputy Attorney General to explore the potential implications; how stringently to interpret the date of extensions and which centers, expectations, how it will work with the mainland coastal centers; does it preempt the Plan Endorsement Rules.

Commissioner Semple explained that the DEP was in the process of evaluating the impact of the legislation on DEP permits and the impacts on the mainland coastal centers.

There was a brief discussion on how the March 15, 2007 date was selected and whether or not there was an opportunity to work with the legislative staff, DCA and the Governor's Office to have the Commission's concerns voiced. It was felt that the extension of the expired mainland coastal centers should include all that have expired or none at all and if the Commission should seek an amendment when the legislature returns.

At this point, Chair McKenna allowed Tim Dillingham, Executive Director of the American Littoral Society to take the floor. Mr. Dillingham added his interpretation of how the amendments came through with respect to the bill. He noted that he was involved in the final negotiations on the bill prior to it being heard by the Assembly Budget Committee. The changes were fast and furious in the last moments of the legislature which he felt were due in great part to concerns of the environmental community. The environmental community concerns dealt with environmental impacts, its impact of skirting compliance with important environmental regulations and particularly on the coastal centers portion and the damage that it did to the Plan Endorsement process. He believed the original legislation, as he remembered, did exempt all coastal centers that had expired. He felt that was a critical part if they expired during that defined economic emergency period. At various points in the legislative debate the deadline extended back two years, was moved up to 2008, back to mid 2007. The deliberations and the negotiations that happened between the parties, the legislative sponsors, the interest groups the commissioner of DEP and the Governor's Office originally tried to remove the whole exemption for the coastal region to allow coastal centers to go through the process that they are going through now. The sponsors within the Senate insisted on putting it back in and the compromise that was reached in the language was to allow the ones that had met the DEP rule when the centers originally expired in 2005 and that was that they had to engage in Plan Endorsement, they had to be determined to be complete and in the process, the boundaries had to be modified to exclude the environmentally sensitive areas. That was the intent of the language in the March 15, 2007 deadline. His understanding of the negotiations that led to the language was that it narrowed it to those centers primarily in Cape May County and including Barnegat that had expired but did not finish the process through Plan Endorsement.

He urged the Commission not to move to extend other centers that have expired. He felt that the real intent is to let permits go forward under old rules that were in place. If the Commission was to move

forward in that way, they would oppose that move. If the Governor was to conditionally vetoed the bill there would be tremendous opposition from the environmental community.

Commissioner Wilson expressed her concern regarding how the bill was formulated. She was concerned that the Commission was just having the opportunity to get their heads around the bill and that two members of the Commission, the DCA Commissioner and the DEP Commissioner would have possibly been involved and knowledgeable of these amendments and the controversies and at no time the SPC was considered as an important party to have at the table. Commissioner Wilson also noted that there was potential legislation to revamp the SPC and elevate the position of chair to a cabinet position and that it is important to weigh in on this type of legislation. Chair McKenna asked for a meeting of the Legislative Committee to be scheduled on a day that the PDC was not meeting.

Commissioner Souder noted that his concern that OSG is a part of the Department of Community and has certain requirements and suggested that a conversation be had with Commissioner Doria regarding the dual role of the being staff to the State Planning Commission and being a division of DCA. Commissioner Wilson voiced her concern that she felt that it was a potential conflict.

COMMITTEE REPORTS

Plan Development Committee, Edward McKenna, Chair

At this point Chair McKenna asked Marty Bierbaum to provide an update with respect to the State Plan rewrite.

Mr. Bierbaum reported that since Mid-April he has been reading the cross-acceptance comments; identifying issues, having structured conversations with interested parties and State agencies and that today's PDC meeting would be the sixth meeting held to review the issues. The issues discussed to date include: role and function of the State Plan, expanding the notion of equity; greenhouse gases and climate change; the need for clarity with respect to local property taxes; Planning Area 3 and how it might be modified; agriculture issues, Brownfield's issues, design issues; economic growth, eminent domain, environmental protection issues; housing issues, COAH, transportation issues, stabilizing VMT, urban revitalization and special resource areas such as the Delaware Bay. There have also been discussions on implementation concerns, monitoring and evaluation. He explained that discussions have been productive and that he has had active involvement from the State agencies. He also reported that he has begun writing the Plan and hoped to have narrative in two or three weeks for review by the PDC. There were no questions from the Commission regarding the status update.

COMMISSIONER REPORTS

There were no Commissioner Reports.

PUBLIC COMMENTS

Tim Dillingham, Executive Director, American Littoral Society commended the Commission and staff for identifying in the action plans the need to address critical and central issues to coastal protection in terms of habitat protection, water supply issues, the boundaries of the growth areas and the centers. He further noted that he had further comments that he would get back to the staff regarding the same. He noted some particular concerns he had especially in Cape May. He feels that the water allocation and water supply issues have never been adequately addressed. He mentioned the Gibson Water Supply Study and that the DEP was suppose to develop a water supply master plan for Cape May County which integrated ecological limits on how much limits on how much water could be withdrawn, as well as a comprehensive water supply plan to deal with the issues of saltwater intrusion. He explained that the plan remains undone, the limits undefined and yet we are going forward again with decisions about growth and intensification in some places that should be referenced back to those metrics. The language in the action plan talks about

the capacity analysis being done based on allocation and he didn't know what that meant under the DEP's current allocation program, but that type of thing needs to be factored in when formulating action plans. A couple of other issues Mr. Dillingham felt could work within the process is that they have started to work on adaptation to sea level rise. Towns and the State need to take steps to adapt to this ever-growing concern. The concept of resilient communities is one that is happening in the coastal management world. We are particularly focusing on protection of coastal habitats, tidal marshes drowning, bulkheads with development built right up to them to retreat during sea level rise. Consequently, coastal areas lose the marine habitat that the commercial and recreational fishery industries rely upon by exposing more and more development thus creating more vulnerability and risk --- these kinds of things that need to be addressed. Lastly, DEP has laid out a new welcome commitment to addressing the issue of purification and nutrient enrichment in coastal estuaries, which is a tremendous problem around the world and doing great harm to the estuaries. It is probably going to require us to go back and evaluate storm water management to a certain degree. He noted that he wasn't sure if all his concerns could be wrapped up into the coastal consistency parts of the action plans, but wanted to put them out to make sure they get addressed somewhere and he feels this is clearly the opportunity. Lastly, he mentioned public access to the beaches and the requirement that the DEP has put into place ensuring that towns have adequate public access in conjunction with beach nourishment and the receipt of millions dollars of public tax money. It is a planning element that needs to be done and ought to be integrated into the plans, perhaps part of the open space sections.

Commissioner Semple responded to the CAFRA center piece of actions plans, as she noted that she had spoke with Kate Meade beforehand and Jen Feltis from DEP had worked very hard to provide her with a lot of the language that is in the environmental portions of the action plans. She wanted to make sure that her staff and the department staff got equal acknowledgement for the work. She noted that it is a two step process like it has been in the past where there is going to be a certain amount of work done before plan endorsement and then a certain amount of work done before the CAFRA center designation. So the issues discussed definitely can be addressed in the second piece before the CAFRA center designation is acknowledged.

With no further comments from the public, Chair McKenna asked for a motion to adjourn. Commissioner Barnes made the motion, and it was seconded by Commissioner Eskilson. All were in favor. The meeting was adjourned at 11:42 a.m.

Respectfully submitted,

Benjamin L. Spinelli
Secretary and Executive Director

Dated: July 31, 2008