

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of December 13, 2001

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
Frank Doyle
Phyllis Marchand
Michael Amorosa
Leslie McGowan
Elizabeth McKenzie
Thomas Olenik
Valerie Hrabal

DCA Staff:

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

Guests:

Harvey S. Moskowitz
Joseph Lyons
Richard L. Palatine

John Cantwell

Former Board Member

State Soil Conservation Committee, New Jersey Department of
Agriculture
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 9:44 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 June 28, 2001 meeting. There were none. A motion was made by Mr. Frank Doyle, which was seconded by Mr. William Connolly, Vice-Chair of the Board. The minutes were approved by all except Ms. Leslie McGowan, Ms. Elizabeth McKenzie, and Mayor Phyllis Marchand, who abstained due to their absence from that meeting.

ORGANIZATION

Chairman Kirkpatrick announced that, since the Board last met, two Board member resignations have been received. Mr. Gregory Fehrenbach resigned from his seat on August 24th when his employment changed from the municipal to the county level. He is now working for Sussex County and can no longer represent the New Jersey State League of Municipalities.

The other resignation received was from Dr. Harvey Moskowitz, who sent in his letter on October 27th. He held the seat of professional planner in private practice and now has plans to enjoy a full retirement. Chairman Kirkpatrick wished both former members well.

Chairman Kirkpatrick welcomed two new members to the Board. The Honorable Phyllis L. Marchand, Mayor of the Township of Princeton in Mercer County, is filling the seat held by Mr. Fehrenbach. Elizabeth C. McKenzie, A.I.C.P., P.P., who has a planning practice in Flemington Borough, Hunterdon County, is filling the seat held by Dr. Moskowitz.

It was also noted that the Deputy Attorney General who covers the Board's activities is changing. Mr. Keith Costill introduced to the Board members his replacement, Ms. Lauren Corriero.

In terms of how the Board's committees are affected by these changes, it was decided that, for now, the new members will replace their predecessors in the committees to which they were assigned. Ms. McKenzie and Mayor Marchand, therefore, will both be added to the Streets and Parking Standards Committee. Chairman Kirkpatrick will serve as Chair of this Committee for the time being.

Chairman Kirkpatrick announced that he would like to be removed from the Stormwater Management Standards Committee; Mr. Michael Amorosa will be taking his place.

COMMITTEE REPORTS

Stormwater Management Standards Committee:

Chairman Kirkpatrick reported that the Stormwater Management Standards Committee had met on August 16th. He gave the status of the special area standards application for the Township of Harding in Morris County. T & M Associates is assembling the work done by Mr. Charlie Miller and the original ordinance submitted by Harding Township. Part of finalizing the special area standard will require that the outstanding issues raised by the Committee be resolved. They involve the use of composite curve numbers and the appropriate value to use for initial abstraction when depression storage is used. The Department of Community Affairs is trying to contract with Mr. Norman Miller to help resolve these issues.

Mr. Connolly noted that he had received a letter from Mr. Peter Messina of the Great Swamp Watershed Ten Towns Committee that asked a couple of questions. Mr. Messina wanted to know if the special area standards would apply to the municipality in full, or just the part of the municipality that lies within the Great Swamp Watershed. It is only that portion of the municipality within the Great Swamp. He further asked if the special area standards would apply to all ten towns. Mr. Connolly pointed out that the Board would not mandate all ten towns be included unless it was requested by them. However, the towns that opt out of the special area standards designation would still have to comply with the existing Residential Site Improvement Standards (RSIS). Chairman Kirkpatrick stated that the ten towns involved should understand that, in order to be effective, these special area standards are meant for the entire Great Swamp Watershed. Mr. Amorosa expressed concern that within a mile can be found both swamp and solid rock. The Raritan River has totally different characteristics. Mr. Connolly replied that Somerset County uses its own stormwater management practices for the Watershed instead of those of the New Jersey Department of Environmental Protection (DEP).

Streets and Parking Standards Committee:

It was reported that the Streets and Parking Standards Committee met on October 25th and discussed pavement thickness, parking loop criteria, curve radii, net-versus-gross density, and the use of rural street designations. Mr. Connolly added that the code change process begins now for these items. Mr. Michael Baier gave the time frame for the proposed changes.

OLD BUSINESS

- A. Status of the Special Area Standards Application for the Township of Harding, Morris County:
(Discussion under Committee Reports above.)

- B. Special Area Standards Previously Approved for the Township of Stafford, Ocean County and the Necessary Permits to be Obtained from the DEP:

For the benefit of the new Board members, Chairman Kirkpatrick gave the background on this issue. Stafford Township has soils that are amenable to infiltration, so it applied for special area standards for its stormwater management and they were granted. A condition of the special area standards designation, however, required Stafford to obtain a general permit from the DEP. The DEP agreed to process it. The Township was supposed to meet with the DEP to see what the permit would encompass. The Chairman has observed that, clearly, if followup is not done on this, the permit will not get issued. He expressed his frustration and annoyance with spending so much time and energy on something that just halts. The Board must make sure that its decisions are carried through. This type of inaction is an insult to each and every Board member.

Ms. Valerie Hrabal asked about the DEP committee that was supposed to be formed to review the Best Management Practices (BMP) Manual, on which she and Mr. Doyle would serve. She has not heard anything on this. Mr. Baier reported that the BMP Manual was still undergoing internal revisions and was not yet ready to be reviewed by the larger review committee.

Mr. Connolly asked if the DEP has recognized that it has to adopt these things by rule. Mr. Baier responded that it does now. The DEP is trying to propose its new rules and the stormwater rules together.

NEW BUSINESS

- A. Discussion of Annual Changes to the Streets and Parking Standards Subchapter of the RSIS:
The first item under consideration was pavement thickness, and it was announced that there is already agreement on this issue and it is ready for proposal.

The second item under consideration was street requirements for multifamily developments, in particular, the issue of parking loops (the streets that serve multifamily developments). If what has historically been developed is considered, such streets have only one access. There are many of these throughout the State and Chairman Kirkpatrick said he has not heard of any problems with them. Now that the RSIS is in effect, municipal planning boards want to apply the American Association of State Highway and Transportation Officials' (AASHTO) standards to these developments. AASHTO requirements may not be practical to apply to these developments. Municipalities have made the process difficult for the application community by trying to apply AASHTO standards. The Board is now trying to address this. A definition for "multifamily access street" needs to be added to the RSIS. The Streets and Parking Standards Committee has drafted one for Board consideration. The Committee has discussed whether it is appropriate to have a different average daily traffic (ADT) for a single entrance into a multifamily development (12 to 15 buildings). The rationale for this difference is based on a number of factors, such as fire protection. The Uniform Construction Code applies differently to single-family buildings as opposed to multifamily buildings. The Board is looking for a compromise that would reasonably define streets serving multifamily development. "Multifamily access street," as used in the draft proposal, is what used to be called "parking loop."

Ms. McKenzie offered an amended definition to clarify that it is the street being defined and not the development. Ms. McGowan suggested adding the word "directly." Mr. Connolly presented the proposal,

which was developed by the Committee. It allows dead-end, multifamily access streets where the length is 400 feet or less. Longer multifamily access streets would have to have a means for turning around. Finally, multifamily access streets would be limited to 500 ADT at any point. There was discussion about whether a limit of 500 ADT was too restrictive for this street type, though congestion and cars backing out of parking spaces is a concern. There was also concern that the proposal still does not resolve the discrepancy between single-family developments and multifamily developments with respect to the number of dwellings that may be served by a cul-de-sac. Still others felt that cul-de-sac length should also be considered. Ms. McGowan noted that there are a few typographical errors to be corrected as well. It was decided that the issue should be sent back to the Committee.

Referring to the Committee's recommended changes to Table 4.4, where .5 parking spaces per dwelling is added for guest parking, Ms. McGowan suggested that it could just be called guest parking, which has to be in a common area. Her suggested language: "Already includes provisions for guest parking at .5 spaces per dwelling unit." Ms. McKenzie said that this provision should be on a sliding scale. A smaller development could be .5, but a larger one does not need that many spaces provided. The Institute of Transportation Engineers and the National Parking Association have standards for this. The Board will need to get a published source.

B. Meeting Dates for 2002:

It was noted that a list of meeting dates for 2002 is included in the meeting packet.

C. Agreements to Exceed:

Chairman Kirkpatrick expressed his concern with how the provision in the RSIS for agreements to exceed is being followed. There are times when a municipality insists on certain items being provided by the developer in order to grant planning board approval on a project. The requirements oftentimes become difficult for the developer to comply with. The standards are supposed to be the minimum for health and safety, and the maximum that can be required by a municipality. The Board put language into the RSIS to keep boards from making inappropriate requirements, not to keep developers from exceeding the standards. Some municipalities are requiring that design enhancements offered on the developer's plans be covered by an agreement to exceed. Municipalities should not be able to stop the application process because the developer is offering more than the standards call for. Dr. Moskowitz pointed out that the language is clear in the very beginning of the provision's section: both the municipality and the developer have to agree; N.J.A.C. 5:21-3.6(a) is very clear. Chairman Kirkpatrick responded that the agreement is to protect the applicant from the municipality, not the other way around. The intention was never to create a situation where an agreement to exceed is needed over every small change that happens to exceed any one of the standards. Mr. Amorosa suggested adding another paragraph to the subchapter explaining this. Dr. Moskowitz said that, if the applicant proposes and the town accepts, it is an agreement. The agreement to exceed does not have to be a formal document; it could be a statement in the resolution. DAG Costill was asked for his opinion. He said that these agreements to exceed were not intended to be very formalistic. Mr. Amorosa offered to draft clarifying language.

D. SIAB Waiver Review Committee Resolution #99-1:

Chairman Kirkpatrick referred to SIAB Waiver Review Committee Resolution #99-1, which was approved on September 30, 1999. This was a waiver from the requirement that not more than 20 dwellings be served by a dead-end water line [N.J.A.C. 5:21-5.3(b)]. A 26-lot development on an existing street needed individual

wells, but the wells were polluted from a nearby Superfund site. In order to develop, the applicant had to extend a main that was two miles away. At the time, the municipality wanted to require him to loop it. The developer then applied for this waiver. The Waiver Review Committee said that the regulations do not cover off-site extension of utilities. The applicant was granted the waiver. The RSIS does not apply to off-site utilities. The Board may receive a request for a clarification on this issue.

E. Conflict of Interest:

Chairman Kirkpatrick said that he has been accused of having a conflict of interest. He always prefaces his remarks at planning board meetings with the statement that he does not represent the Board. He also says that any opinions regarding the standards are his and not necessarily those of the Board. Dr. Moskowitz told him it would be ridiculous to recuse himself. Ms. Hrabal added that Board members do not interpret and they do not enforce the standards. Ms. McKenzie said that she feels what the Chairman says before a meeting is appropriate. Each Board member is allowed to interpret the RSIS. DAG Costill said he sees no conflict of interest with the Board members' professional activities. *Ms. McKenzie made a motion that the Board ask for an advisory opinion from the Executive Commission on Ethical Standards; Mayor Marchand seconded the motion. Chairman Kirkpatrick said that he would prefer to obtain a legal opinion from the Attorney General's office and the motion was changed accordingly. The vote was called for and all were in favor.*

BOARD MEMBER COMMENTS

Mr. Amorosa asked when the vacant seat for a representative of the New Jersey Society of Professional Engineers will be filled. Chairman Kirkpatrick said that the professional engineer appointed should be someone who designs, instead of someone who reviews. This appointment should be made shortly.

Chairman Kirkpatrick thanked Dr. Moskowitz for his service to the Board. The Chairman said that Dr. Moskowitz has been an active and vocal member, which is how this Board works best. Chairman Kirkpatrick acknowledged that the two often disagree with each other, but they do not take it personally. This Board seems to function so well because of that attitude. He expressed his sentiment that all the Board members will miss him.

Dr. Moskowitz thanked the Chairman for his comments. He agreed they do not always see eye-to-eye on everything. No matter whether the Chairman has fought with him or agreed with him, the Chairman has given great leadership, and has done a terrific job of putting the RSIS together. Dr. Moskowitz said he knew the standards would work and he thinks they have worked. He said that Mr. Connolly has also made enormous contributions to the Board. Dr. Moskowitz thanked Ms. Mary Ellen Handelman, Secretary to the Board, for her timeliness in getting meeting packets together and out in the mail to the Board members, and for her near-perfect minutes. He also thanked Mr. Baier for his role in working with the committees and responding to correspondence from the public. He said Mr. Baier's letters are sensitive and to the point. Dr. Moskowitz thanked Ms. Amy Fenwick Frank, saying she has been great. He said it is nice to experience a feeling of accomplishment.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick adjourned the meeting at 11:48 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of June 28, 2001

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
Gregory Fehrenbach
Harvey Moskowitz
Thomas Olenik
Peter Reinhart
Valerie Hrabal

DCA Staff:

Robert Austin
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
Mitchell Malec

Guests:

Joanne Harkins	New Jersey Builders Association
John J. Cantwell	New Jersey Society of Municipal Engineers
Richard L. Palatine	State Soil Conservation Committee, New Jersey Department of Agriculture
Jessica Sanchez	Office of State Planning, New Jersey Department of Community Affairs
Courtenay Mercer	Office of State Planning, New Jersey Department of Community Affairs

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:40 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 May 24, 2001 meeting. There were none. *A motion was made by Mr. Frank Doyle and seconded by Ms. Valerie Hrabal to approve the minutes; all were in favor except Mr. Gregory Fehrenbach, who abstained due to his absence from that meeting.*

COMMITTEE REPORTS

Stormwater Management Standards Committee:

Chairman Kirkpatrick reported on a meeting held May 24th. The Stormwater Management Standards Committee has been unable to set a meeting with staff at the New Jersey Department of Environmental Protection (DEP) to discuss revisions to its Best Management Practices (BMP) Manual which affect the Residential Site Improvement Standards (RSIS). The DEP is forming a committee to review changes to the BMP Manual. Either Ms. Jessica Sanchez or Mr. Carlos Rodrigues will serve on the committee representing the DCA's Office of State Planning. Chairman Kirkpatrick asked if there were any Board members who would be willing to sit on this committee. Both Ms. Hrabal and Mr. Doyle volunteered to serve. It was noted that the Stormwater Management Standards Committee meeting scheduled to follow the Board meeting today was cancelled. Another meeting will be set as soon as practicable. Mr. William Connolly, Vice-Chair of the Board, mentioned that Mr. Charlie Miller of Roofscapes was generally complimentary regarding the report by T & M Associates. He thought it might be cheaper if the consultant had used the on-lot BMPs instead of the end-of-pipe BMPs.

OLD BUSINESS

- A. Status of the Special Area Standards Application for the Township of Harding, Morris County:
Chairman Kirkpatrick reported that T & M Associates had completed the case studies, but there were errors in some of the calculations. The Stormwater Management Standards Committee is waiting for T & M Associates to submit a revised report.
- B. Special Area Standards Previously Approved for the Township of Stafford, Ocean County and the Status of Permits to be Obtained from the DEP:
It was suggested by a Board member that perhaps the New Jersey Legislature should be appealed to in order to address the difficulties being encountered with the special area standards for the Township of Stafford in Ocean County. It was suggested that the Board write a letter to the DCA Commissioner urging a legislative approach or to the Acting Governor asking him to intercede with this interagency conflict. Mr. Charles Richman, DCA Assistant Commissioner, felt that a letter should go from DCA Commissioner Jane Kenny to DEP Commissioner Robert Shinn. Dr. Harvey Moskowitz agreed that this would be a good idea. Mr. Connolly remarked that the Board is being extraordinarily patient. Stafford Township's special area standards do not exist at this point in time. The Board has put off telling anyone involved about this for half a year. At this point, the Board should send a letter to Stafford's officials advising them that the special area standards are not in force anymore. Chairman Kirkpatrick commented that the Township will find it difficult to make anyone comply with the special area standards who knows they do not have to. Mr. Connolly reminded the Board members that, at the meeting when the DEP made the commitment to issue this municipality a permit for ground-water discharge, the DEP had said it would not want to do it in more than the Township of Stafford, which has received awards for its stormwater management program; the reason DEP said it would not want to do it everywhere is because it might not be good for the Barnegat Bay. Chairman Kirkpatrick directed staff to write a letter to the DCA Commissioner with the full history of the situation and what the Board will have to do if the DEP does not satisfactorily address this issue. *All Board members were in favor of writing the letter.*
- C. Rule Change Process Proposal:
The Board considered each comment and response individually.

Comment #1: *All were in agreement with the response.*

Comment #2: The Board members will accept testimony from anyone who wants to give it. The Board is always open to comments, both oral and written. *It was agreed to add language to the rule that allows interested parties to testify.*

Comment #3: *All Board members were in favor of the response, noting that the word substitutions make the language more accurate and consistent with other sections.*

Comment #4: *For the reasons listed above, all were in favor of the response.*

Comment #5: Joanne Harkins, PP, AICP, Director of Land Use and Planning at the New Jersey Builders Association (NJBA), explained the reasoning for this comment. This suggested change is to address not this group of Board members specifically, but its membership and abilities down the road. Dynamics can change

dramatically over many years and her organization feels that such an amendment is prudent where the regulatory process is concerned. She used the New Jersey Pinelands Commission as an example. Her concern was not so much about committee members making modifications to a suggested change which someone else has submitted, but about committee members introducing their own major change recommendations when public submissions are under consideration. Chairman Kirkpatrick said he does not feel that committee member comments should be stifled because of a calendar date. This Board should have some kind of latitude. If a member of the organization which he represents encounters a problem with the standards, he would like to be able to address it with the Board. Mr. Connolly noted that, in all the years he has been doing regulations, he has observed that the more a committee develops procedures for making changes, the more delays it builds into the system. The question here is whether the Board should put a clock on its work. Regarding the Pinelands Commission, it has regulatory authority. This Board does not; it is an expert drafting committee. To begin to put limits on the Board members as to when they can speak just makes it more difficult to have sensible outcomes. It is like telling the Board members that they can only have good ideas once a year. When Ms. Hrabal argued that that is what the Board is only allowing the public to do, Mr. Connolly told her that the Board should not be restricted. He pointed out that this is a balanced committee and heavy regulation unnecessarily burdens it. Dr. Moskowitz felt there are classes of changes that materially affect the standards. Significant changes should not be made after the public hearings have been held. Mr. Doyle agreed with Mr. Connolly, since the Board has responsibility for safety. Mr. Fehrenbach related to the Board that his feelings have changed on this subject over the past couple of months. He concurs with Mr. Connolly's comment and that the Board should proceed with putting these procedures in place without restricting changes from the Board. He does not think that the Board should tie its hands further by not being able to consider something that came up which could be integrated into the regulations. This is a very open process and nothing has happened where something has been forced on someone else. Expressing concern that the Board members not be precluded from making changes after January 1, Assistant Commissioner Richman suggested moving the following sentence from N.J.A.C. 5:21-3.8(d) to (b): "Committee members may introduce other changes to the rules at the time the committee is considering recommendations from the public." *All were in favor of these changes except Dr. Moskowitz, who abstained.*

Comment #6: All were in favor of the response.

Comment #7: Ms. Harkins stated that design impact was recently a big issue with garage sizes. If people are coming forward and saying there is a problem, the person requesting a change should be able to submit facts and so forth why this would be a good change. Mr. Peter Reinhart suggested the Board could add to the footnote that the cost analysis should include the impact on design. Dr. Moskowitz did not agree. This requirement would preclude a layman from approaching the Board to report that something is not working (with garage sizes, this is what had happened). The complaint or request for a change does not have to come from a professional. It was decided to leave the response as is; all were in favor except Ms. Hrabal, who voted nay.

Comment #8: Ms. Harkins explained that the NJBA was active when the bill for the Site Improvement Act was in the Legislature. The Board should be assured that any proposed changes come from solid standards; authoritative sources must be sources that are well recognized. It was her understanding that textbooks can be used. Dr. Moskowitz warned her that this is getting on dangerous ground. He spoke on recreation areas which have standards that are sometimes developed by parties that have a vested interest and are therefore biased. Mr. Fehrenbach ascertained that Ms. Harkins would like the words in the statute to be put

on the form. He felt that this is a reasonable request and simply a semantic issue. *Stating that there are some things that the Board cannot cite an authoritative source on, Chairman Kirkpatrick said that the Board accepts the comment and agrees to put the language from the statute on the form; all were in favor.*

- D. Discussion of Annual Changes to the Streets and Parking Standards Subchapter of the RSIS:
The letter from Ms. Harkins dated June 26th was discussed. The letter suggests that the Board needs much more extensive review and consideration of the draft changes to the streets and parking standards related to paving, and the definitions affecting multifamily and attached housing developments, by retaining consultants and having studies done, etc. Dr. Moskowitz said that he agrees with this and it should be given serious consideration. The Streets and Parking Standards Committee should be asked to review the changes requested and can spend more time talking about the issue rather than doing the research. Chairman Kirkpatrick and Mr. Connolly disagreed with him, however, on the need to hire a consultant to analyze the proposal.

Mr. Connolly felt that, if this is what people using the standards want, then the Board should do it. He sees no problem in letting any changes to the standards for pavement wait another year to discuss the issue further. He suggested that perhaps an illustrated guide on the standards would be helpful; this would be a good project for a consultant.

Mr. John Cantwell of the New Jersey Society of Municipal Engineers (NJSME) requested that his organization's committee receive a copy of the proposed rules.

Ms. Hrabal noted that there is confusion in the field on the issue of multiple-family street design.

Mr. Fehrenbach said that there were certain expectations in the past about which referenced standard for pavement the Board would include in the RSIS. At a Board meeting the Chairman did not attend, the members decided not to use the NJSME's Asphalt Handbook for County and Municipal Engineers as a referenced standard. Mr. Fehrenbach stated that there are differences between this handbook and the method used by the American Association of State Highway and Transportation Officials (AASHTO). He would change his vote on this from the last time.

Chairman Kirkpatrick referred to the pavement thickness changes in the June 11th memorandum from Mr. Michael Baier and his red-marked copies of the pages from the RSIS for Figures 4.2, 4.3, 4.4, 4.5, and Table 4.7. He said he would like to eliminate Note #4 on each of the figures, as this subbase is not used in the NJSME design, but the other pavement layers are made thicker. The thicknesses are based on a formula from the Asphalt Institute. Chairman Kirkpatrick reminded the Board that the DCA hired a consultant, SWK, which used the AASHTO method, which is a longhand method; those numbers came out close to what the NJSME had proposed. He explained his stance on the subject and went over the distribution of the Asphalt Handbook.

Mr. Connolly questioned whether the top course presented in the Asphalt Handbook is adequate, given the tolerances with which pavement is laid. Mr. Cantwell said the old book had one inch and that was a problem. Municipal engineers put down one and one-half inches all the time and have had no problems with it. Mr. Connolly responded that, aside from the technical differences, a legal problem arises from the language in the statute, which says that the standards should be "performance-based" requirements, and that the Model

Subdivision and Site Plan Ordinance (MSSPD) should be used. The MSSPD was not performance oriented on this issue. From his view, shifting to AASHTO allows the pavement to be tailored to the traffic instead of to the steps on this ladder. He said that there should be a reason to change back to the Asphalt Institute method. He would like to push the standards more toward being performance based. Chairman Kirkpatrick said he is interested in the road being constructed in a way that will hold up longer in the field under construction traffic. He explained that the one-half inch is taken out of the top and put in the stabilized base. It was Mr. Connolly's feeling that, if there are dueling authoritative sources, he would stick with AASHTO. Mr. Reinhart agreed that, as a nationally recognized group, AASHTO is better to go with as opposed to the NJSME, which is an advocacy group.

Mr. Fehrenbach pointed out that the NJSME expressed a concern regarding construction traffic wearing out the roadway or the base of the roadway and that is why the Board is addressing pavement thickness. The Board tried to make the roadways stronger when they are handling heavy traffic. Previously, he believed that this was being addressed in the changes made last year. Under Robert's Rules, a member who made the original motion that passed (as he did when this issue was previously voted on) should be able to make a motion for its reconsideration.

Chairman Kirkpatrick asked for a motion to go back. Mr. Fehrenbach made the motion to reconsider including the Asphalt Handbook in the RSIS as a referenced standard and Mr. Doyle seconded it. The motion carried with five yeas (Hrabal, Maskowitz, Fehrenbach, Doyle, Kirkpatrick) and three nays (Reinhart, Olenik, Connolly).

Mr. Fehrenbach noted that the RSIS currently uses the AASHTO formula. The diagrams can conform to the Asphalt Handbook. Dr. Maskowitz said that there should be some explanation in the book that the diagrams do not conform to the formula. Mr. Connolly argued that it does not make sense to have a document which stipulates the use of a formula and then backs it up with diagrams that do not match. Mr. Reinhart pointed out that, in the field, if someone is told to construct the street a certain way, that is the way it gets done. Use one or the other and have certainty. *A motion was made by Mr. Reinhart and seconded by Mr. Connolly to table this issue for a year. The motion carried with five yeas (Hrabal, Reinhart, Olenik, Maskowitz, Connolly) and three nays (Fehrenbach, Doyle, Kirkpatrick).*

NEW BUSINESS

Discussion of Parking Situation in the City of Newark, Essex County:

Chairman Kirkpatrick shared with the Board a letter from the City of Newark's Engineering Department regarding redevelopment of a site and the parking that is being provided for it. The parking arrangement in question is the configuration of five spaces allowed for each three-family dwelling consisting of three bedroom units, their relationship with each other, and with the sidewalk and driveway opening. The spaces are arranged so that cars are parked behind one another, limiting the ability to move certain cars without moving other cars that may not belong to the same tenant. Chairman Kirkpatrick said his response to Newark was that this parking arrangement is inconsistent with the RSIS. Dr. Maskowitz felt that the Chairman's answer was correct.

INFORMATION

It was decided that there will be no July meeting of the Board. The Stormwater Management Standards Committee will meet in the next couple of weeks.

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 meeting. Dr. Moskowitz made the motion, which was seconded by Mr. Fehrenbach; all were in favor. The meeting was adjourned at 11:37 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of May 24, 2001

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Department of Community Affairs
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William Connolly, Vice-Chair
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Harvey Moskowitz
Peter Reinhart
Valerie Hrabal

DCA Staff:

Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago

Guests:

Jessica Sanchez	Office of State Planning, New Jersey Department of Community Affairs
Richard L. Palatine	State Soil Conservation Committee, New Jersey Department of Agriculture
Susan M. Weber	Bureau of Statewide Planning, New Jersey Department of Transportation
John Cantwell	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 9:40 a.m.

ROLL CALL

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

OPEN PUBLIC MEETINGS ACT

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APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the April 19, 2001 meeting. There were none. *A motion was made by Mr. Michael Amorosa and seconded by Mr. Frank Doyle to approve the minutes; the vote was unanimous.*

COMMITTEE REPORTS

Streets and Parking Standards Committee:

Dr. Harvey Moskowitz, Chair of the Streets and Parking Standards Committee, reported on a meeting held April 19th at which were discussed the annual changes to Subchapter 4 of the Residential Site Improvement Standards (RSIS). The Committee will be recommending to the Board today changes related to parking loops.

Chairman Kirkpatrick noted that the Stormwater Management Standards Committee will be meeting today following the Board meeting to discuss the T & M report.

OLD BUSINESS

- A. Status of the Special Area Standards Application for the Township of Harding, Morris County:
T & M has submitted its report, the purpose of which was to test the effect the proposed special area standard would have on development in the Township of Harding, Morris County and how it would ultimately affect the Great Swamp Watershed. Chairman Kirkpatrick noted that, apparently, application of the draft special area standard *would* have an effect on this area.

A question was raised as to what effect the New Jersey Department of Environmental Protection's (DEP) changing of its regulations would have on what is being done in Harding Township. The response was that the DEP's current actions have no effect on this issue.

B. Special Area Standards Previously Approved for the Township of Stafford, Ocean County and the Status of Permits to be Obtained from the DEP:

DCA Assistant Commissioner Charles Richman stated that a discussion has taken place with Mr. Robert Tudor, Assistant Commissioner of the DEP. Mr. Richman said he is awaiting a reply from Mr. Tudor, who indicated that the May 11th letter from Barry Chalofsky, P.P. of the DEP's Bureau of Nonpoint Pollution Control may be rescinded.

C. Resolution #01-1 Memorializing the Special Area Standards for Streets and Parking in the Township of Lumberton, Burlington County:

Mr. Michael Baier reported that he has spoken with Deputy Attorney General Keith Costill regarding the concern brought up at the last Board meeting as to whether the addition of the less-restrictive parking requirement could be voted on by the members, as it was not advertised in the New Jersey Register as part of the special area standards application. DAG Costill agreed that this action by the Board was appropriate.

Reiterating his opinion that the special area standards request by Lumberton Township does not rise to the level required for a special area designation, Chairman Kirkpatrick called for a vote to memorialize Resolution #01-1. Mr. Amorosa made the motion, which was seconded by Ms. Leslie McGowan. The motion was carried, with two members abstaining (Kirkpatrick, Reinhart).

D. Letter to the DEP and the New Jersey State Planning Commission Regarding DEP Stormwater Regulations: Chairman Kirkpatrick said that he was told this morning that a response to the Board's May 1st letter to Mr. Joseph Maraziti, Chairman of the State Planning Commission, will be forthcoming.

NEW BUSINESS

Discussion of Annual Changes to the Streets and Parking Standards Subchapter of the RSIS:

The "500" figure for the average daily traffic (ADT) of a parking loop in Table 4.2 was questioned. It was pointed out that this figure was taken from the Model Subdivision and Site Plan Ordinance. Also, the ADT of 500 is for either side of the loop, which in effect would make it 1,000.

The difference between a parking loop and a cul-de-sac was discussed. Some viewed the main difference between the two as being that most parking loops are private streets and most cul-de-sacs are public streets. However, if the ADT of a parking loop is 1,000 (500 on each side), this would mean that approximately 200 units could be built along the street.

One of the questions the Streets and Parking Standards Committee dealt with regarding the parking loop is whether it is a public or private residential street, and whether perpendicular parking is ever allowed on a public street. Ms. McGowan stated that the Township of East Brunswick in Middlesex County has approved

this type of parking in the past. She did not agree that a street should be labeled as public or private in this regard. She explained how planned residential developments that were originally supposed to be private are now receiving municipal services, such as trash and snow removal.

Since it is the geometry of a street that determines the speed limit, perpendicular parking may encourage slower traffic because drivers know a car can back out from any of the parking spaces. This type of parking is being promoted in some places as a traffic-calming device. However, for grid-type through streets, perpendicular parking would not be appropriate.

Regarding the new language [N.J.A.C. 5:21-4.16(e)] on the last page of the draft changes, there was a question regarding whether parking lot size should be regulated based on ADT. Dr. Moskowitz suggested limiting which parking lots will have a single means of access by number of parking spaces or number of dwelling units served. The Board also discussed whether the parking lot definition would include parking garages; it does not. It was pointed out that the parking lot access requirements only apply when the sole access to the building is the parking lot. Staff explained that a considerable amount of correspondence is received questioning the inconsistency between the number of multifamily housing units that are allowed to be served by a dead-end parking loop and the limit on the number of single-family homes on a cul-de-sac (150 apartments as opposed to 25 houses). The Board does not want a huge parking lot without a second access or a divided entrance. The first consideration is the fire safety issue. The second is density and circulation. Ms. Valerie Hrabal felt that the draft language is trying to regulate density. Mr. Peter Reinhart pointed out that when a multifamily project is designed, the parking garage is designed first. It was noted that parking garages are regulated by the Building Subcode of the Uniform Construction Code and not the RSIS.

Chairman Kirkpatrick stated that he would like comments on these draft changes from the Board members at the next meeting. He will consult with the New Jersey Society of Municipal Engineers to see what its members would like to do. He noted that these street issues are the only changes for this year's annual amendments to the standards.

Relating a recent experience with someone contacting him personally for an interpretation of the standards, Dr. Moskowitz said he had advised the individual that it would be inappropriate for him to respond to his letter directly. He warned the Board members not to get themselves involved in local issues. He appreciates that the Board has as a liaison Mr. Baier, who is very capable in interpreting and applying the standards, and is available to meet with these individuals to offer guidance.

Ms. Amy Fenwick Frank explained the timeframe involved in making changes to the RSIS. The amendments must be approved by the Board by its June 28th meeting in order to be published as a Notice of Adoption in the first December issue of the New Jersey Register. This will allow the new edition of the RSIS to be operative by June 2002. She also reported that the code change process has already appeared in the New Jersey Register. The comment period for this proposal ends June 6, 2001, so the members will be provided with a copy of the comment and response document by the next Board meeting.

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 meeting. Mr. Doyle made the motion, which was seconded by Mr. Amorosa; all were in favor. The meeting was adjourned at 10:29 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:37 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 18, 2001 meeting. He asked that two sentences be corrected in the fourth full paragraph on page 4. He disagreed with the word "overboard" in the ninth sentence, noting that the revised Asphalt Handbook recommends more thickness in the base because this course supports more construction traffic. In the following sentence, Chairman Kirkpatrick objected to the wording, stating that he would not have characterized it this way. A consultant was hired to compare the figures in the two books. Stating that he would like the minutes to accurately reflect the discussion, the Chairman requested that the ninth and tenth sentences be amended to read as follows: "The book was amended and, when it was republished, it was a little overboard bit more than expected in terms of thickness. ~~That caused the DCA~~ The Board agreed to hire a consultant to check the figures compare the NJSME's Asphalt Handbook to the AASHTO method." *A motion was made by Mr. Frank Doyle, which was seconded by Dr. Harvey Maskowitz, to approve the minutes as so amended; the vote was unanimous.*

Chairman Kirkpatrick asked if there were any corrections to the minutes of the March 22nd meeting. There were none. *A motion was made by Mr. Michael Amorosa and seconded by Mr. Gregory Fehrenbach to approve the minutes; all were in favor except Chairman Kirkpatrick, Mr. Doyle, and Ms. Leslie McGowan, who abstained due to their absence from that meeting.*

OLD BUSINESS

A. Discussion on Special Area Standards for Street Design in the Township of Lumberton, Burlington County:

A transcript of the testimony from the public hearing held on March 22nd was distributed to all Board members. Those members absent from the public hearing were asked to certify that they have read this transcript so that they could participate fully in today's discussion and take action on Lumberton Township's special area standards request.

The discussion began by addressing whether the special area standards being requested comply with N.J.A.C. 5:21-3.5(d). Some members felt that changing sidewalk width from four to five feet fails to meet the criteria in the Residential Site Improvement Standards (RSIS) for a special area standard because the items that Lumberton wants can be accomplished by other means and because Lumberton has not shown that five-foot sidewalks are needed for safety. Others felt that, if the municipality desires a special area designation in order to improve predictability for developers and to encourage transfer of development rights (TDR), there should be no problem with it. The Township of Lumberton feels the increased width of sidewalks will encourage pedestrian traffic and will address the increase in density. As an observation, one member said that special area standards appear to be an effective marketing tool in selling TDR districts.

Some Board members pointed out that deviations, such as sidewalk width, are already allowed through agreements to exceed the standards. Other members argued, however, that developers would know exactly what the standards are if a special area was established. If *de minimis* exceptions and agreements to exceed the standards are relied upon, one could contend that Lumberton Township favored one developer over another, depending upon the application accepted. Widening the sidewalk from four to five feet may be a detriment to a developer, because it is not cheaper. However, with standards for a special area, everyone plays by the same rules.

Building setbacks were discussed. It was noted that the front-yard setbacks for single-family homes and duplexes are a minimum of 15 feet and a maximum of 25 feet. For a townhouse, the setback is a minimum of 5 feet and a maximum of 10 feet. (Note: not part of the standards.)

Mr. Fehrenbach said that he respects Chairman Kirkpatrick's argument that the Township had not established the need for special area standards. However, when a municipality has development objectives that are not consistent with what is allowed under the RSIS, there must be some recourse. There are some municipalities that are aggressively going after the TDR concept. Being able to apply for special area standards for this reason alone would be that recourse.

Marc R. Shuster, PP, AICP, Consultant to Lumberton Township, stated that it is the sidewalk and street widths that take up most of the discussions at planning board meetings. Standards for sidewalks "are more honored in the preaching than in the doing" because they are only four feet wide and only a few feet off the curb. Development in Lumberton is substantially more intense than in the average Burlington County town. Extra width is needed to make the sidewalks more utilitarian within this special

type of development.

There was a concern that the additional right-of-way included in the special area standards was not justified. Some of the width is used to separate the sidewalk from the right-of-way line. A Board member noted that there is a reluctance to build the sidewalk against the right-of-way line. One reason is that there would be no room for monuments.

Dr. Moskowitz felt that the concrete, the sidewalks, and the setbacks for the special area are all well thought out; he does not think that any of the specific provisions are in conflict with each other. Mr. William Connolly, Vice-Chair of the Board, said he sees no reason to open up the right-of-way, especially to provide separation between the sidewalk and the right-of-way line. Chairman Kirkpatrick noted that the applicant is requesting to reduce the traveled way from 14 to 12 feet, reduce the asphalt from 30 to 28 feet, and widen the right-of-way from 50 to 52 feet.

A motion was made by Mr. Fehrenbach to approve the Neighborhood Street Type requested by Lumberton; the motion was seconded by Mr. Amorosa. Mr. Connolly requested to amend the motion by dividing the question, holding out the right-of-way width as a separate issue. Mr. Fehrenbach and Mr. Amorosa accepted the amended motion.

Discussion continued on the proposed collector street type. Mr. Connolly said that this new collector matches the current minor collector except for the right-of-way width. The proposed right-of-way width has 16 more feet than the minor collector right-of-way included in the standards, which is 50 feet. This special standard was misrepresented in the New Jersey Register, as it should have been listed as an amendment to the minor collector street type (medium and high intensity with two parking lanes).

Ms. McGowan pointed out an inconsistency between the Township's plans and the requested standard. The drawing shows a sidewalk width of six feet instead of the requested five feet. Mr. Shuster agreed that this item was incorrect on the plans.

The proposed special area standards would always require parking on both sides of the collector street. To a question about the amount of parking that is required to be off street, Mr. Shuster responded that it is in compliance with the RSIS (as listed on page 25 of the special area standards application). Amount of parking depends on whether it is a large lot, duplex, or townhouse. Two spaces will be provided for a large lot, one space for a duplex or townhouse, depending on the number of bedrooms. There is a maximum of two parking spaces for two bedrooms. Parking is slightly less restrictive than in the RSIS.

Mr. Fehrenbach expressed concern that the Board did not advertise the parking requirement as less restrictive and therefore should not vote on it today. Mr. Shuster related his experience when presenting applications; if the board finds another variance is necessary, it can be added at the time of the hearing. When the argument was raised that if the variance is similar it can be amended, but if it is different it cannot, it was pointed out that anyone interested in this case is present and has been present for the last two meetings.

Joanne Harkins, PP, AICP, Director of Land Use and Planning at the New Jersey Builders Association, stated that, for age-restricted communities, she doubted there would be more than two parking spaces required.

Mr. Fehrenbach noted that the motion on the table does not include parking and right-of-way width. He suggested that the Board take action on the current motion and deal with the other two separately. *The vote was called for and the motion was carried with six yeas (Maskowitz, McGowan, Amorosa, Fehrenbach, Doyle, and Connolly) and three nays (Hrabal, Olenik, Kirkpatrick).*

Mr. Amorosa made a motion to accept the right-of-way width of 52 feet as proposed by Lumberton Township; Mr. Fehrenbach seconded the motion. The vote was called for and the motion was carried with five yeas (Maskowitz, McGowan, Amorosa, Fehrenbach, Doyle) and four nays (Hrabal, Olenik, Connolly, Kirkpatrick).

Dr. Maskowitz made a motion that the special area standards for parking be approved as requested by Lumberton; Mr. Doyle seconded the motion. It was mentioned that this vote should be considered conditional, pending the Deputy Attorney General's (DAG) affirmation that this item did not need to be advertised as an addition to the special area standards application. The vote was called for and the motion was carried with seven yeas (Hrabal, Maskowitz, McGowan, Amorosa, Fehrenbach, Doyle, Connolly) and two nays (Olenik, Kirkpatrick).

B. Status of the Special Area Standards Application for the Township of Harding, Morris County:
Chairman Kirkpatrick informed the Board members that a contract has been executed and the consultant is conducting a case study, which will be due by May 1st.

C. Special Area Standards Previously Approved for the Township of Stafford, Ocean County and the Status of Permits to be Obtained from the New Jersey Department of Environmental Protection (DEP):
Chairman Kirkpatrick reminded the Board, when it granted special area standards to the Township of Stafford in Ocean County, there was a condition in the resolution that the municipality would obtain a municipal-wide permit for injection wells from the DEP so that individual applicants would not be burdened with permits. So far, this has not been accomplished, but he does not fault Stafford Township. The DEP wants Stafford to wait one and one-half years because it is rewriting its stormwater rules, and cannot dedicate staff to writing a permit for Stafford. He expressed his dissatisfaction with what the DEP is doing. The RSIS was designed to improve the development process and make it predictable. The Township's special area standards have not been legitimized by gaining the necessary DEP permit. What happens if someone feels they should not have to comply with the standards of the special area? Is there something that can be done by the Department of Community Affairs (DCA)?

Mr. Connolly stated that the Township of Stafford's special area standards are based on a commitment from the DEP that the DEP has not honored. Mr. Michael Baier reported that the reason the DEP gives is that, if Stafford Township had requested the general permit quickly enough, it would have been

processed. At present, the DEP does not have the time to deal with the issue. And further, the DEP says that it does not issue permits for this sort of thing. However, people who built and installed injection wells could be at risk if the DEP suddenly changes its policy.

The stormwater rules in question were almost complete when the DEP showed them to DCA staff a year ago. What is being discussed is not unique to this Township. At a meeting between the Stormwater Management Standards Committee and DEP staff regarding the issuing of such permits for the whole Barnegat Bay area, the DEP staff members said that they have data that shows that doing this might not be good – in fact, it might be bad for the bay if it was done on a large scale. Chairman Kirkpatrick explained that the Board thought it was doing something good for the Barnegat Bay to require the municipality to get permits from the DEP. This was an agreement made directly with the DEP. Now, the DEP says it will not issue these permits for another one and a half years, when Phase II municipal permits are in place. The Board feels that mandating such permits is the right thing to do. The Board discussed taking appropriate action. Dr. Moskowitz pointed out that the Board is not an enforcing agency; the matter is out of its hands at this point.

Mr. Fehrenbach asked whether the Township of Stafford is beyond the point of return if it gets a DEP permit now. The Board could write a letter to Stafford Township advising it of the problem and the municipality could pursue legislative action. Ms. Valerie Hrabal pointed out that, without the permits, Stafford does not have special area standards anymore. The DEP's actions on Phase II permits will supersede the RSIS and the special area standards. Dr. Moskowitz said that a good way to handle this is to keep the special area standards in place until someone calls from the Township with a problem. Chairman Kirkpatrick felt that the Board should write a letter to DCA Commissioner Jane Kenny, with a copy to the Acting Governor, stating that the Board is distressed over this situation. DCA Assistant Commissioner Charles Richman said that he would rather talk to the Commissioner personally about this first. Chairman Kirkpatrick said that he will give him one month before the Board takes action.

D. Draft Letter to the DEP and the New Jersey State Planning Commission Regarding DEP Stormwater Regulations:

Mr. Connolly stated that new DEP stormwater rules cannot be accomplished in the densities that the State Development and Redevelopment Plan is encouraging. A letter is being drafted to the Chair of the State Planning Commission on this issue. No Board members were against sending the letter.

NEW BUSINESS

Clarification #3, "Existing Development," and Cul-de-Sac Length:

Two letters have recently been brought to the Board's attention regarding a misinterpretation of Clarification #3 on Existing Development in the RSIS. Mr. Stuart R. Koenig of Stickel, Koenig, & Sullivan, Attorneys at Law, wrote a letter to Assemblyman Richard H. Bagger on February 23rd stating that the clarification's language would seem to allow a development to be done section by section, extending a cul-de-sac further and further without limitation. In his letter, Mr. Koenig went on to contend that this clarification is symptomatic of a greater problem, where regulating agencies are adopting unclear and ambiguous regulations, and simply making up rules on a case-by-

case basis. Mr. Steven F. Ransome of the Boonton Township Planning Board in Morris County wrote Chairman Kirkpatrick on April 8th also asserting that the clarification seems "to leave the door open to extend cul-de-sacs indefinitely."

Many Board members felt Mr. Koenig's and Mr. Ransome's reasoning was ridiculous. To extend their line of thinking with an illustration, Mr. Connolly said that Long Beach Island could be called a cul-de-sac because it only has one bridge for access and egress. Chairman Kirkpatrick felt making a clarification of a clarification would appear to be an admission that the clarification is unclear, which he felt it is not. He asked staff to prepare letters to the two individuals advising them that they read the clarification wrong.

Ms. Harkins said that the attorneys want the clarifications to state that they are issued by the Board, along with the date of Board approval.

Mr. Fehrenbach pointed out that the word "existing" in the first sentence is an assumption that the clarification deals with pre-RSIS development. It depends on the point in time that this is looked at. To clarify the language, he suggested substituting the phrase "existing development" with "development preceding June 3, 1997." He added that the date should be kept as "Approved by the Site Improvement Advisory Board on 10/26/00" and an amended date added. Chairman Kirkpatrick agreed that these amendments could be made. The cover letter should state that the amendment is based on a misinterpretation of the language. This should be mailed to all municipalities and interested parties.

INFORMATION

New DEP Septic Rules:

Ms. Hrabal gave some background on DEP's new septic rules. She said that the DEP is requiring recharge correction with septic systems now. Mr. Connolly stated that the DEP is exempt from the RSIS. The Board had worked together with the DEP to make the RSIS agree with its rules. Chairman Kirkpatrick pointed out that the DEP never published the 50-75-80-percent stormwater reductions that were included in the RSIS to be consistent with the expected DEP rules. Mr. Connolly noted that the DEP's latest draft still has that language. The draft also adds recharge. In order to get a septic system approval in certain cases, recharge must be done. Ms. Hrabal felt that the DEP has destroyed the RSIS by imposing requirements that are inconsistent with the RSIS. Mr. Connolly added that the Board is unable to conform the RSIS to DEP rules because the DEP does not know where it is going yet.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

8

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn the meeting. Mr. Amorosa made the motion, which was seconded by Mr. Fehrenbach; 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 March 22, 2001

LOCATION

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

ATTENDANCE

Board Members:

Charles Richman
Gregory Fehrenbach
Michael Amorosa
Harvey Moskowitz
Peter Reinhart
Valerie Hrabal

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
Richard L. Palatine	State Soil Conservation Committee, New Jersey
	Department of Agriculture
Marc R. Shuster	for Lumberton Township, Burlington County
Joanne Harkins	New Jersey Builders Association
John Cantwell	New Jersey Society of Municipal Engineers

CALL TO ORDER

Mr. Charles Richman, Assistant Commissioner of the Department of Community Affairs, announced that, in the absence of both the Chair and Vice-Chair of the Site Improvement Advisory Board, Mr. Gregory Fehrenbach would be chairing the meeting today. Mr. Fehrenbach called the meeting to order at 9:52 a.m.

ROLL CALL

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

OPEN PUBLIC MEETINGS ACT

Mr. Fehrenbach 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.

COMMITTEE REPORTS

Stormwater Management Standards Committee:

Mr. Michael Baier reported that the Stormwater Management Standards Committee has had two meetings since the last Board meeting. The first meeting was held on January 30, 2001 with representatives of the New Jersey Department of Environmental Protection (DEP) to discuss the new Best Management Practices (BMP) Manual, the new stormwater management rules, and Phase II stormwater permits. The summary of this meeting is in today's meeting packet.

The DEP is going in a new direction with respect to water quality. The quantity requirements have not been significantly amended, but the quality requirements are changing fairly rapidly. There are two sweeping changes in what the DEP is doing. One is with respect to removal of pollutants. In the past, only extended detention basins were necessary to meet the requirements. Under the revised rules, however, further stormwater control is required. The other big change in the DEP's rules is the establishment of groundwater recharge requirements. Sites will be required to infiltrate a portion of the stormwater: 90 percent of the predevelopment recharge after development.

The Committee had some concerns on these issues which were forwarded to the DEP about a month ago; no response has been received to date. The comments included concerns regarding the cost of the new changes and the feasibility of doing recharge everywhere throughout the State. The Committee pointed out to DEP staff that they should reconsider where they can require recharge and where they cannot, or establish better criteria for when a developer can be exempted from the recharge criteria. The proposal the Committee reviewed actually had a requirement to mitigate; if the developer could not recharge on the site being improved, he would be required to mitigate somewhere else – something like the Wetlands Mitigation Bank – establishing a mitigation bank for recharge. In addition, many of the recharge methodologies are being used for parking lots and streets. Technically, this means that stormwater infiltration structures may be classified as injection wells, making a DEP permit necessary. This was raised during the Township of Stafford, Ocean County special area standards application. It is a very broad-reaching proposal at this point, especially in combination with the BMP Manual.

One Committee member remarked that it is quite a devastating proposal in terms of requiring recharge for all areas of the State and that it is just not doable. This requirement on recharge does not reconcile with the Residential Site Improvement Standards (RSIS) or the objectives of the State Development and Redevelopment Plan (SDRP) in terms of funneling more development into growth areas, urban areas, and built-up areas. What the DEP is proposing is inconsistent with the SDRP. It encourages large lots. The only way one can comply is by following management practices that require a lot of land. In fact, according to the new DEP rules, a developer with large lots in an area without dense development can be exempt from the recharge requirement, making it easier to develop in less-dense areas. For example, if the property is in a zone where there is less than ten percent impervious cover for the zone, and the developer is doing less than ten percent impervious cover for the site, he is exempt from the recharge requirement. Apparently, this practice is becoming institutionalized.

Another important issue is that the regulations will supercede the RSIS. The Board adopted the DEP's design criteria with peak reduction factors to accommodate the volume control as part of the stormwater management standards. This was based on an agreement with the DEP and an understanding that the DEP was going to work together with the Board. Now that the Board has adopted the DEP's design criteria, however, that is not the case. According to the DEP, those volume management practices are no longer good enough and recharge must be done to attenuate the volume.

It was suggested that the Board consider sending a letter to the DEP voicing its concerns, with a copy going to the State Planning Commission. The Commission ought to be alerted to the inconsistency of these

regulations; it may be unaware of their impact. Mr. Fehrenbach asked Mr. Baier to draft a letter for Board approval to the DEP on this issue, with a copy going to Mr. Herbert Simmens, Director of the Office of State Planning. Another Board member felt that a copy should go to the Governor as well. The letter written to the DEP should be a legal or policy letter with technical attachments in which the Board's concerns are described: that the BMP Manual is inconsistent with the SDRP, such as encouraging development in low-density areas or on large lots. It was also felt the letter should point out that all State agencies are obligated to follow the objectives of the SDRP, as this was a Governor-led initiative. Keeping all affected State agencies' policies consistent with those of the SDRP is the only way such a State plan can be effective. The new DEP rules directly impact upon the RSIS; the amendments to the rules make them inconsistent with the RSIS and the SDRP. Further, it goes against the Board's objectives, as it generates cost.

Mr. Baier said that the DEP is supposed to have another meeting on the stormwater management rules. He thought this will allow the Committee to talk in more depth about the new rules.

Assistant Commissioner Richman asked Department of Community Affairs staff to circulate the Committee's comments that were sent to the DEP to all Board members. He stated that this issue should be discussed by the Board at its next meeting. However, he felt that the Board, acting formally in sending a letter to the DEP, would start the process of State agencies arguing in public as opposed to working together. In terms of progressing, he asked the Board members to keep this in mind. It is a question of the best way to influence a decision.

Mr. Baier reported that the other meeting the Committee held was on March 1st and it regarded the special area standards application for the Township of Harding, Morris County. The discussion on this item appears below under Old Business.

OLD BUSINESS

A. Public Hearing and Technical Discussion on the Special Area Standards Application from the Township of Lumberton, Burlington County for Street Design:

Mr. Fehrenbach announced that the New Jersey Register of March 5th contained the Streets and Parking Standards Committee's recommendation in a Notice of Public Hearing and Recommended Special Area Standard for Street Design Within the TDRII Receiving Area of Lumberton Township, Burlington County. Because of the increase in development intensity within the transfer of development rights (TDR) receiving area, the municipality is seeking to provide additional on-street parking and to take certain design actions to

afford safer pedestrian travel. This hearing is a rescheduling of the one that was to be held on January 18th and had been published in the January 2nd issue of the New Jersey Register. He asked if there were any parties present to represent the Township of Lumberton.

Marc Shuster, PP, AICP stated that he is the newly appointed Planning Consultant for Lumberton. Mr. Shuster said that the Township has been one of the most imaginative municipalities, at least in the southern portion of the State, in the use of the TDR concept in the last several years. TDR was passed a number of years ago, and has been very successful in the preservation of much of the area of the municipality which had been designed for preservation and the increase in development of those areas which had been selected as receiving areas.

Last year, the Township of Lumberton embarked on the TDR program to select more areas for sending and receiving, which is what he is testifying on this morning. The area is specifically designed as both a mixed-use and senior-type project to be permitted in the receiving area with rather unique design features -- features which Lumberton Township believes echo, in a quite consistent manner, the goals and principles of the SDRP in terms of emphasizing pedestrian-friendly development, increasing densities, and using design features consistent with the SDRP. In order to accommodate the higher density and unique design features, Lumberton is requesting these special area standard adjustments in the TDR RA6 receiving areas. The street widths and the extra parking areas to accommodate increased density will allow for additional parking; the wider sidewalk width, and the separation between the sidewalk and the cartway parking lane are to encourage heavier pedestrian use of the sidewalk system. The sidewalk system is a mandate of design criteria in the ordinance that it be a comprehensive system to encourage its use and to minimize the dependence upon automobiles to the mixed-use area for local services. The Township believes that the special area standards being requested are the minimum deviation necessary to accomplish the goals within this new receiving area.

Mr. Fehrenbach asked Dr. Harvey Moskowitz if he, as Chair of the Committee which reviewed the application, had any comments on the matter. Dr. Moskowitz asked Mr. Shuster to outline the specific changes being requested by the municipality. Mr. Shuster responded that, on Table 4.3, Cartway and Right-of-Way Widths, the Traveled Way under Neighborhood Street Type is proposed to be changed from 14 feet to 12 feet, the Cartway Width from 30 feet to 28 feet, and the Right-of-Way Width from 50 feet to 52 feet. Instead of the various types of collector streets, Lumberton is proposing a singular Collector Street Type row be added to the table that would include: Total Average Daily Traffic of <3,500; Traveled Way of 20 feet; Number of Parking Lanes of 2; Parking Lane Width of 16 feet; Cartway Width of 36 feet; Curb or Shoulder would be Curb; Sidewalk or Graded Area would be 2 sidewalks; and Right-of-Way Width of 66 feet

to accommodate the wider sidewalks, and the greater separation between the sidewalks and the cartway. Two types of streets, the neighborhood and the collector, are closely defined. The basic comprehensive nature of the design features has been included in the ordinance. The Township believes that, in order to have a friendlier and more pedestrian-oriented development, it needs to keep major collectors out of the residential neighborhoods. Table 4.6, Street Grade and Intersection Criteria, is also proposed to be amended: the row for Curb Radii is changed for Alley from 20 feet to 10 feet, Neighborhood from 25 feet to 15 feet, and Collector from 30 feet to 15 feet.

Mr. Shuster was asked to define the difference between his proposed collector street and the minor collector street for medium and high intensity with two parking lanes in Table 4.3. He responded that the sidewalks are five instead of four feet wide. The municipality is trying to create a greater separation between the sidewalk (the pedestrian lane) and the cartway. When asked how great of a separation, he said that that would be variable, based on the individual design and the lot size. The applicant wants the freedom, within the individual review of the design, to maximize that separation. A minimum right-of-way would not be desirable, as it would restrict the freedom of design, depending upon the individual application. Mr. Shuster said he would like to allow some flexibility because, based upon the lot size or the unit type, that separation might be greater or lesser; that is the purpose of increasing the right-of-way.

Dr. Moskowitz said that the Committee is in favor of the special area standard and did not feel that it calls for much discussion. He related to the Board that he had recently spent some time in the Illinois area. This design feature is used there. There are about eight to ten feet between sidewalk and curb. This allows for flexibility. Trees are planted or utilities are placed there where there will be no impact on the concrete. The problem of sidewalks getting pushed up by tree roots, often a nuisance in New Jersey, does not happen with this design. He felt that there is a lot to be said for this increased separation between sidewalk and curb.

Mr. Peter Reinhart asked how large the TDR area is and what the density is. He expressed concern because, with a special area standards request, there is supposed to be some reason for it; he felt that the protocol for special area standard applications is not being met. Is a TDR reason enough to qualify for special area standards? Mr. Shuster responded that the RA6 area of the Township of Lumberton is very small. It is plus or minus 400 acres (2/3 of a square mile). The density is three to the acre after the TDR is applied.

Ms. Valerie Hrabal asked if there is a specific developer or applicant looking into developing this area yet. Mr. Shuster said that he is not aware of any. Ms. Hrabal's concern was that the request to establish a

change in the criteria is premature when there is no developer with a specific plan in mind. Also, most of what the Township wants to do could be handled through *de minimis* exceptions or agreements to exceed the standards. Mr. Reinhart agreed. Assistant Commissioner Richman asked Dr. Moskowitz why the Committee decided to recommend a special area as opposed to utilizing these other methods of deviating from the standards. Dr. Moskowitz told him that there were two reasons. One is that it reduces uncertainty. In a special area, the rules are set, and a developer would not have to be concerned with another layer of delays and so forth. The second reason is that the Board has established TDR as a reason for requesting special area standards; it is one of the examples in the RSIS for the use of special area standards. The RSIS also encourages TDR, which is a matter of State policy. Mr. Fehrenbach added that it makes the implementation of the master plan for the community a lot cleaner as well.

Mr. Fehrenbach opened the discussion to public comment. Joanne Harkins, PP, AICP, Director of Land Use and Planning at the New Jersey Builders Association (NJBA), stated that she had raised concerns when this issue was before the Committee. Her comments concentrated on two areas. The proposed special area is to be a mixed-use development. She believes that the wider sidewalks may be justified in the mixed-use portion of the development. The NJBA's concerns are related to the residential streets and the request for wider sidewalks (from four to five feet). As indicated, this is not a particularly dense development, with three units to the acre. The NJBA does not see any reason to increase sidewalk width to five feet on residential streets; it is not necessary. A lot of active adult communities in the State have been built and the NJBA has never seen a reason why a sidewalk width of four feet would be inadequate for residential neighborhoods. Her other issue of concern was right-of-way width on residential streets; the NJBA does not think that this is necessary, either. The NJBA objects to the 52 feet because it would just add additional design constraints that are not necessary. The NJBA does not feel that there is any information submitted by the Township that indicates why wider sidewalks and right-of-way are necessary. This can be worked out as an agreement to exceed. Mr. Fehrenbach noted for the record that Ms. Harkins wrote a letter to the Board on January 12th in which she made these comments. *There being no other members of the public coming forward to comment, he asked for a motion to close the public hearing; this discussion will be continued at the next Board meeting. The motion was made by Ms. Hrabal and seconded by Mr. Reinhart; all were in favor.*

B. Status of the Special Area Standards Application for the Township of Harding, Morris County:

A kickoff meeting was held with the consultant, T & M Associates, on the Harding Township special area standards application. The consultant is taking the job done by Miller and applying it to four projects using the BMP Manual. The consultant has eight weeks from the date of this meeting (March 1st) to complete the case study.

NEW BUSINESS

Special Area Standards Previously Approved for the Township of Stafford, Ocean County and the Status of Permits to be Obtained from the New Jersey Department of Environmental Protection:

One of the requirements for the special area standards that were approved for Stafford Township was that a DEP permit was supposed to have been obtained. This has not yet been done. Stafford contacted the DEP and was told that the DEP does not have such permits in place. Developers that are putting in these basins without permits may be exposed to fines. A meeting of the Stormwater Management Standards Committee with Stafford Township and the DEP should be set up as soon as possible. All Committee members are invited to attend.

INFORMATION

A. *De Minimis* Exception Log:

In the meeting packet, the Board members received the updated log on *de minimis* exceptions. The exceptions the Board received this year mirror the trend. Those for sidewalks and curbs seemed to be the most prevalent.

B. Followup from Last Meeting on Branchburg Township, Somerset County:

Mr. Baier gave the background on this matter from the last Board meeting. The Branchburg Township engineer's report references Somerset County's curve numbers because the front part of the property in question discharges into a storm sewer that is owned by the County. The back of the property discharges into a drainage culvert that is traversed by a County bridge downstream from the site. The Branchburg engineer told Mr. Baier that the County often allows a municipality to perform the stormwater review on smaller projects, though the County standards are applied.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Mr. Fehrenbach called for a motion to adjourn the meeting. Dr. Moskowitz made the motion, which was seconded by Mr. Amorosa; all were in favor. The meeting was adjourned at 10:35 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of January 18, 2001

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
Frank Doyle
Gregory Fehrenbach
Michael Amorosa
Leslie McGowan
Harvey Moskowitz
Thomas Olenik
Peter Reinhart
Valerie Hrabal

DCA Staff:

Keith Costill, Deputy Attorney General
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
Mitchell Malec

Guests:

Joanne Harkins
Richard L. Palatine

New Jersey Builders Association
State Soil Conservation Committee, New Jersey

John Cantwell

Department of

Agriculture

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 9:38 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 26, 2000 meeting. There were none. *A motion was made by Mr. Frank Doyle and seconded by Ms. Valerie Hrabal to approve the minutes; the vote was unanimous.*

NOMINATION OF CHAIR

Chairman Kirkpatrick asked the Board members whether they would like to appoint a new chair. *Mr. Peter Reinhart made a motion to reappoint Chairman Kirkpatrick to continue his post; the motion was seconded by Dr. Harvey Moskowitz. All were in favor.*

OLD BUSINESS

A. Public Hearing and Technical Discussion on the Special Area Standards Application from the Township of Lumberton, Burlington County for Street Design:

Chairman Kirkpatrick announced that a telephone call was received this morning from the Township of Lumberton informing staff that there will be no representatives appearing before the Board on this special area standards request today. Therefore, he said that he would like to table this discussion until the March Board meeting. However, he added that he would accept any comments from the public relative to the application at this time.

Joanne Harkins, PP, AICP, Director of Land Use and Planning at the New Jersey Builders Association (NJBA), stated that she will let her letter of January 12, 2001 to the Board members on this subject stand on the record.

The Chairman asked for a motion to adjourn the public hearing until the March Board meeting, by which time the public hearing can be properly advertised. Mr. Reinhart made the motion, which was seconded by Mr. Doyle; all were in favor.

B. Status of the Special Area Standards Application for the Township of Harding, Morris County:

The Board was informed that minor contract conditions have delayed T & M Associates from entering into an agreement up to this time. The contract is now on the Treasurer's desk for signing. Department of Community Affairs (DCA) staff will apprise the Township of Harding on the status of the contract.

C. Discussion on the Pavement Thickness Issue:

Chairman Kirkpatrick referred to page 4 of the last meeting's minutes where pavement thickness was discussed. The minutes include an assertion made by the NJBA in a letter dated September 12, 2000 that the New Jersey Society of Municipal Engineers' (NJSME) Asphalt Handbook for County and Municipal Engineers should not be considered an authoritative source in the Residential Site Improvement Standards (RSIS). Since he was absent from that meeting, he wanted to go on record that he was not in agreement with the Board's decision not to list the Handbook (put out by the NJSME, of which the Chairman is a member) as an authoritative source. The NJSME published this Handbook as a third edition; it cost the organization \$7,600 to do so. Copies of the Handbook have been delivered to every municipal engineer in the State. He objected to the removal of the Handbook's reference from the street pavement diagrams in the RSIS. Chairman Kirkpatrick said he was distressed that this occurred and was unaware it was going to happen. When he learned from its letter that the NJBA could not obtain a copy, he ensured that six copies were delivered immediately. At the next annual changes, he or the NJSME will raise the issue again.

Mr. William Connolly, Vice-Chair of the Board, noted that the NJBA had made two points in its letter. One was that the Asphalt Handbook was unavailable to them. If it was an authoritative source, the Board would have obtained copies of the Handbook before it made its decision. The second point was that the authoritative source seems to have been the result of a negotiation process that included the Board. In the end, the difference between the American Association of State Highway and Transportation Officials' (AASHTO) recommendation and that of the Handbook is minimal; the AASHTO method recommends the use of about one-half inch more pavement.

A lengthy discussion ensued as to who determines whether a source is authoritative or not. It was pointed out that the standards in question are "cookbook" pages based on a method from AASHTO. The NJSME uses the Asphalt Institute method. The Board simply chose to follow the AASHTO method because this association is removed from the codifying of regulations in New Jersey and, aside from selling its books, is not affected by whether or not New Jersey follows its recommendations. It is clear that AASHTO has no vested interest in the standards used in New Jersey. This is not so with the NJSME; they do have some vested interest. Dr. Harvey Moskowitz agreed that, presumably, a professional consultant or an academic organization has no "axe to grind." Certainly one could question the use of a handbook put out by the same people who have a vested interest in its use, such as the Asphalt Institute.

Mr. Fehrenbach said that a primary point made by the NJSME had to do with the roads being required to carry their heaviest loads during the period prior to the installation of the wearing surface and that the regulations that resulted from the debate included this consideration in the pavement design; it made the sub-base stronger than it would have been without that consideration. This was a major point made by municipal engineers and the Board agreed that it should be incorporated in the regulations. This pavement standard would satisfy the needs of the roads in the developments – pavement which would eventually become the property of the municipalities. He said that he, for one, would vote in favor of the Asphalt Handbook as being an authoritative source.

When Deputy Attorney General Keith Costill was asked for his opinion on the matter, he stated that any decision on this issue would have to be made on a case-by-case basis. The Chairman is right in that the Board does have the authority to make the call. DAG Costill felt that the NJBA was reading the law a little too narrowly and that the Asphalt Handbook could be considered authoritative. The part of the NJBA argument that is a concern is the allegation the authoritative source was "manufactured," so to speak, which the Board does not have the right to do. The Board can work with authoritative sources, but cannot develop them.

Mr. Doyle asked what the difference is between an authoritative source and a recognized source. DAG Costill said that there are two key words in the Site Improvement Act that address this: that the source should be a *professional* or *academic* institution. He added that an unsuccessful argument has been raised before that publications from a governmental entity are not an authoritative source.

Chairman Kirkpatrick was concerned that the Board relied on hearsay from the NJBA to make its determination. He suggested that the issue be reevaluated during the next round of annual changes.

Mr. Connolly, noting that the DAG has said that the issue is fact sensitive, recalled when this issue first started at a meeting with the New Jersey State League of Municipalities. Mr. Connolly believes the municipality involved was the Township of Bernards in Somerset County. It was just before the standards went into effect. The League had an agenda of concerns pertaining to the standards. One of the concerns was pavement thickness. Many municipal engineers expressed their belief, which the Board finally accepted, that the asphalt, as stipulated in the draft standards, was too thin. At the time, he had asked the municipal engineers how they could object, since the Board was using their book. The response from the Bernards Township engineer was that the NJSME would amend its book. The book was amended and, when it was republished, it was a bit more than expected in terms of thickness. The Board agreed to hire a consultant to compare the NJSME's Asphalt Handbook to the AASHTO method. It was Mr. Connolly's feeling that an authoritative sourcebook that was amended specifically for the Board is questionable.

Mr. Fehrenbach said that the work done by Mr. David Listokin and Ms. Carole Baker through the Rutgers University Center for Urban Policy Research in 1987 in developing the original document, the Model Subdivision and Site Plan Ordinance (MSSPO), upon which the RSIS is based, drew technical expertise from a number of people who served on the advisory committee. They worked to develop a set of standards that had not existed before. If that was considered an authoritative document, it seems illogical that one would not try to develop a set of standards that would appropriately meet the Board's objectives. If there are experts in the field working with a consultant and from this work comes a new concept, such a source should be considered authoritative. Mr. Fehrenbach added that the public perception of the authority on a subject does not make its standards better than those of an organization that have gone through an iterative process, that have been tested, that have been debated, and that have been refined as a result of that process. If the Board is in a position to determine what an authoritative source is, it can document what has been taken into account in order to remove the prejudices of the process and try to come to as refined a standard as possible that should not be rejected out of hand as not being an authoritative source.

Mr. Connolly said that, in his view, whether the Asphalt Handbook is an authoritative source is not the key question. The reason he voted as he did is that he viewed it as a choice between the Asphalt Institute as interpreted by the NJSME, or the AASHTO method as interpreted by the consultant which the DCA hired. He said that he prefers AASHTO, but that no one is asserting that either interpretation is incorrect. Chairman Kirkpatrick thanked the Board members for their input.

D. Proposed Code Change Procedures:

The proposed code change procedures were discussed by the Board members before a vote was taken on them. Staff advised the members that an added provision to the steps that were discussed at the last Board meeting would allow interested parties to review the committee recommendations prior to the meeting at which the Board would vote on the change. Chairman Kirkpatrick ascertained that these proposed code change procedures would be in effect for the changes made to the RSIS in 2002. Mr. Connolly explained that the standards took effect on the third of June. The Board has always tried to have annual amendments take effect on the third of June. In order to do that, they need to be adopted and published in the New Jersey Register in December due to the six-month lag time. That means whatever process there is has to conclude as last year's did at the October meeting. This procedure is responding to a comment from the NJBA that the Board's process is not sufficiently open in terms of public notice, etc. The Board, therefore, tries to provide the public with two opportunities in the process to submit comments. However, the process is slowed down by such bureaucratic procedures, which the NJBA is very much in favor of.

Ms. Valerie Hrabal asked about the code change form. Mr. Michael Baier told her that this form was discussed at the last Board meeting. The Board decided that the code change procedures draft must be amended to include the use of the code change form in the language.

Ms. Harkins said that one of the concerns is that, when a code change is proposed, the cost factors involved should be documented as well as the impact the change will have on the regulations; this is currently not done. Dr. Moskowitz said that any evaluation the Board does already includes these considerations; he was unsure that the Board needs to put all of this in the rule. An enormous amount of material is created by such mandated documentation. Ms. Hrabal argued that the burden of proof should be on the person requesting the code change.

Chairman Kirkpatrick said that the words "and costs, where applicable" should be added to the authoritative source language on the form.

Mr. Michael Amorosa questioned the use of the language on the code change form: “similarly published materials.”

The Chairman called for a vote to adopt the code change procedures as amended to include the code change form language as well as language delineating the cost impact. Mr. Reinhart made the motion, which was seconded by Dr. Moskowitz. Some Board members objected to the absolute necessity of supplying an authoritative source when submitting a code change request. It was decided the form will advise that an applicant “should” (not “must”) submit this information if possible, but it should not cause procedural difficulties in such requests if this information is unknown. A motion was made by Ms. McGowan and seconded by Mr. Doyle to add this amendment to the vote. The vote was unanimous.

NEW BUSINESS

Meeting Dates for 2001:

A motion was made by Mr. Fehrenbach and seconded by Mr. Amorosa to approve the list of meeting dates for 2001; the vote was unanimous.

BOARD MEMBER COMMENTS

Mr. Fehrenbach made a motion that all roll call votes should call the Chairman last in the vote. Mr. Amorosa seconded the motion; the vote was unanimous.

Regarding the appeal of the Waiver Review Committee’s decision in the case involving the City of Summit, Union County, an agreement has been worked out where the applicant has agreed to send money to Summit in case there is an emergency.

Dr. Moskowitz raised the question of whether the standards should be amended for one-way streets. Should there be a narrower cartway width for a one-way system as opposed to a two-way system? He did not feel that it should. The RSIS allows it to be reduced under *de minimis* exceptions. Chairman Kirkpatrick noted that the *de minimis* exceptions log would hold the answer as to whether this type of exception is granted often enough to warrant such a change. He requested that staff provide an updated log to the Board members.

Referring to correspondence from Thomas G. Dunn, P.E., Assistant Township Engineer for the Township of Branchburg, Somerset County which was sent to the Board members in the December 7, 2000 mailing, Chairman Kirkpatrick noted that item #54 on the last page references methods from the Somerset County Handbook for Storm Water Detention Basins as the accepted methodology of the County. He remarked that it is inappropriate to reference this handbook for approval of a major subdivision. Mr. Dunn should be advised of this.

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 meeting. Mr. Amorosa made the motion, which was seconded by Dr. Moskowitz; all were in favor. The meeting was adjourned at 10:39 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of October 26, 2000

LOCATION

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

ATTENDANCE

Board Members:

William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Frank Doyle
Gregory Fehrenbach
Michael Amorosa
Harvey Moskowitz
Peter Reinhart
Valerie Hrabal

DCA Staff:

Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago

Guests:

Joanne Harkins	New Jersey Builders Association
Susan M. Weber	Bureau of Statewide Planning, New Jersey
	Department of Transportation
Richard Palatine	State Soil Conservation Committee, New Jersey
	Department of Agriculture

John Cantwell

New Jersey Society of Municipal Engineers

CALL TO ORDER

Mr. William M. Connolly, Vice-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

Vice-Chairman Connolly 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

Vice-Chairman Connolly asked if there were any corrections to the minutes of the September 21, 2000 meeting. There were none. *A motion was made by Mr. Michael Amorosa to approve the minutes, which was seconded by Mr. Frank Doyle. All were in favor except Mr. Gregory Fehrenbach and Mr. Peter Reinhart, who abstained due to their absence from that meeting.*

OLD BUSINESS

- A. Status of the Special Area Standards Application for the Township of Harding, Morris County:
Vice-Chairman Connolly reported that the contract awarded to T & M Associates to perform a study of draft special area stormwater standards for the Great Swamp Watershed is now pending in the New Jersey Department of the Treasury for approval.
- B. Comment and Response Document on the Proposed Annual Amendments to the Residential

Site Improvement Standards:

Vice-Chairman Connolly explained that the draft comment and response document should be reviewed and acted upon today by the Board in order to be published in the New Jersey Register for this year's annual review cycle.

Regarding the comments and responses to N.J.A.C. 5:21-4.14(d) on minimum garage size, it was noted that some Board members question whether a problem exists while others view it as a physical reality. Some felt that further information is needed before action can be taken on this issue. Mr. Reinhart agreed to provide information from his company on minimum garage sizes. *Dr. Moskowitz made a motion to delay action on this issue and to retain the existing standards until specific information is provided, at which time the issue will be reassessed. Mr. Reinhart seconded this motion; all were in favor.*

Regarding the first comment and response on Table 4.4 under section 5:21-4, Ocean City in Cape May County is concerned that parking requirements for its large, four-to-five-bedroom duplex dwellings are not listed. These two-family homes are the predominant form of housing in this municipality. Currently, the Residential Site Improvement Standards (RSIS) do not have a category for duplexes. The requirements for townhouses could have been used, but there are no parking requirements listed for four- and five-bedroom townhouse units. As Ocean City may be the only municipality in the State with such large duplexes, it was decided that the City can set parking requirements by means of *de minimis* exceptions for now. The Board will discuss including a category for smaller duplexes in the table during the next annual revisions to the standards.

There was some discussion regarding the fact that many people do not realize assisted-living facilities and age-restricted communities fall under the requirements of the RSIS because these facilities are not specifically listed in Table 4.4. The Institute of Transportation Engineers did not provide traffic information for these types of facilities. The Streets and Parking Standards Committee will continue to look for emerging data on trip generation rates for assisted-living facilities. One Board member felt that it was obvious Table 4.4 is illustrative in nature and should not be viewed as a comprehensive list.

Some comments were received on Figure 4.1, which dealt with the joints in the curb shown on the figure instead of the change to the type of concrete used, which was the proposed change. Regarding Figure 4.1, 1 of 5, it was decided that the sketch can be corrected with this rule change to make it consistent with 2 of 5 in showing dummy joints midway between the expansion joints. Comparing 5:21-4.17(b) on Curb Construction Standards on page 56 of the RSIS with Figure 4.1, 2 of 5, a Board member pointed out that the curb section is listed as a maximum of 20 feet in length in the text and a maximum of 16 feet in the figure;

they should be the same. The Board felt that the figures should be corrected so they are all consistent. The commenter also asked for a number of changes to the granite curb detail. It was decided that this issue should be reviewed next year and the response should remain unchanged.

Regarding the second comment and response for 5:21-4.19, Mr. John Cantwell of the New Jersey Society of Municipal Engineers (NJSME) said that he thought the Asphalt Handbook for County and Municipal Engineers was to be used, not the pavement design standards from the American Association of State Highway and Transportation Officials (AASHTO). He said he was under the impression that this had been previously decided. It was explained to him that the New Jersey Builders Association (NJBA) had tried to obtain a copy of the third edition of the Asphalt Handbook for County and Municipal Engineers, was told that only a few pages had been changed, and that it was not being republished. (It was reported that the NJBA has since been sent the new edition.) In a September 12 letter to the Board Chairman, the NJBA asserted that the NJSME and the Board inadvertently negotiated the pavement standards. A Board member explained that, when the “authoritative source” language was put in the RSIS, it was thought that the development of the standards by the authoritative source would be happening independent of the Board. The Department of Community Affairs (DCA) has discussed this issue with the Attorney General’s office. The Deputy Attorney General has advised the DCA that, if what is contained in the NJBA letter is true, then the Asphalt Handbook for County and Municipal Engineers is not an authoritative source. The Asphalt Institute method, upon which the Asphalt Handbook for County and Municipal Engineers is based, can still be used under the alternate design methods. When the same design assumptions are used, the difference is minimal between the two sources: there is a small (about one-half inch) difference in the amount of pavement if the AASHTO method is followed as the basis of the drawings instead of the Asphalt Handbook for County and Municipal Engineers. The Board was in agreement with the response to the comment and change to the proposal.

A Board member noted that there is no pavement section for parking loops in the book. It was explained that parking loops are not listed on the diagrams because there are no average daily traffic (ADT) figures in the standards for parking loops. Text has been added which directs the user to choose the pavement thickness for parking loops based on the ADT of the street.

One comment received dealt with the subject of manufactured housing communities – private communities of single-family homes that are built on leased land. It was explained that a leased-land community is a mobile-home park. In New Jersey, a mobile home bearing a label from the United States Department of Housing and Urban Development can be put on a piece of property just like a single-family home if it is more than 16 feet wide and has a pitched roof. But, if it is on leased land, there are no site

improvement standards. There is no need of a definition for this type of community because there are no applicable standards. It is not worth the time and effort for the State to develop standards, since most municipalities do not allow these structures in their zoning.

C. Proposed Code Change Procedures:

It was noted that the major differences between the current practice of amending the RSIS and the proposed code change procedures are that a form would be used to request the change and a public hearing would be held, where the petitioner would come before the Board to give the reason(s) for the requested rule change. The proposed procedures were requested by the NJBA in a formal petition for a rule. One Board member felt that proponents should also have to describe the economic impact of the proposed change. All parties would be heard at this preliminary public hearing. There would be a deadline to submit the proposal a month ahead of the public hearing. This procedure would not apply to members of the Board, since the Board is charged with revising the standards. The issue was raised as to whether this should be a procedure of the Board or a rule. It was explained that the Commissioner of the DCA has established a process that allows changes to be made after the Board has made a recommendation and the proposal is published in the New Jersey Register. Some members felt that it is beneficial for the Board to set up a date-regulated process in the New Jersey Register which ensures that any amendments to the RSIS are rational, deliberate, and allow for public notification and input. By institutionalizing this process, it can become a part of the New Jersey Administrative Code and a procedural rule in the RSIS. *A motion was made by Mr. Reinhart, which was seconded by Mr. Amorosa, to approve the draft language to be put in rule format for a vote at the next Board meeting. The vote was unanimously approved.*

NEW BUSINESS

Draft of the Clarification on Existing Development in the RSIS:

Dr. Moskowitz stated that the cover memorandum should refer to "off-tract," not "off-site," improvements. He said he did not agree with the clarification. There were no other comments on the text of the clarification. Vice-Chairman Connolly explained to the Board that clarifications are not mandatory, as they are not a formal part of the RSIS and are not bound in the book, but are distributed when books are purchased. The Board approved the clarification for distribution.

BOARD MEMBER COMMENTS

Dr. Moskowitz reminded the Board members that the New Jersey Planning Officials will be holding a panel discussion

(at which Chairman Robert Kirkpatrick will be participating) at the New Jersey State League of Municipalities annual conference on November 16th in Atlantic City. The discussion is entitled "Are Residential Site Improvement Standards Improving?"

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Vice-Chairman Connolly adjourned the meeting at 10:59 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of September 21, 2000

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 (DCA Commissioner's designee)
Frank Doyle
Michael Amorosa
Harvey Moskowitz
Thomas Olenik
Valerie Hrabal

DCA Staff:

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

Guests:

Joanne Harkins	New Jersey Builders Association
Kendra Lelie	Township of Lumberton, Burlington County
Richard L. Palatine	State Soil Conservation Committee, New Jersey
	Department of Agriculture

John Manock	Montgomery Township, Somerset County
John Cantwell	New Jersey Society of Municipal Engineers
Patrick Bunn	J. S. Hovnanian
Scott Van Cleef	Counter Classics
Bob Heibell	Van Cleef Engineering
Frank Pandullo, P.E.	F. P.P.E. Consulting 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 10:35 a.m. following the public hearing on the amendments to the Residential Site Improvement Standards (RSIS).

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 June 15, 2000 meeting. Referring to the second to last sentence in the last paragraph on page 2, he made the following correction: "The Committee has been provided with several stormwater management projects from ~~Harding Township~~ various locations which will be studied: a multifamily project, an assisted-living project, a project including one-half-acre lots with sewers, and a mixed-use development." *There being no further corrections, Dr. Harvey Moskowitz made a motion to approve the minutes as amended, which was seconded; the vote was unanimous.*

COMMITTEE REPORTS

Streets and Parking Standards Committee:

Dr. Moskowitz reported on a meeting held August 17th regarding existing streets (addition to an existing street layout of a development in the Township of Montgomery, Somerset County); a limit on the length of boulevards, the possibility of requiring cut-throughs at certain intervals, and the dimension of the cartway on both sides of a divided street; minor changes to the standards on cul-de-sacs; and limiting the average daily traffic (ADT) value for parking loops.

Dr. Moskowitz also reported on a meeting held by the Streets and Parking Standards Committee this morning concerning the special area standards request from the Township of Lumberton, Burlington County. The Committee voted to refer the request to the full Board.

Waiver Review Committee:

Mr. Michael Baier reported on a meeting held July 21st at which time the application for a waiver of the RSIS was heard for the City of Summit in Union County regarding secondary access for an apartment development. After hearing testimony from Summit, the Township of Springfield, and the developer, the Waiver Review Committee decided to deny the waiver request. Subsequently, the City filed an appeal of the waiver decision. However, the Board has been asked to grant a 40-day extension of time before a date for the hearing on the appeal is set, as the parties are negotiating a settlement and an agreement may be reached.

Stormwater Management Standards Committee:

Chairman Kirkpatrick reported on a meeting held August 17th at which was discussed the awarding of a contract from the Request for Proposals to T & M Associates to perform a study of draft special area stormwater standards for the Great Swamp Watershed. He explained that the contract was awarded based on State contract specifications and explained how the bidder was chosen. Mr. William Connolly added that the amount of the contract exceeds the State's limit of \$25,000; the bidder's price is \$27,000, so a special request will be made through the New Jersey Department of the Treasury. Also at the meeting, a request for larger diameter polyethylene pipe to be included in the standards was discussed. The Stormwater Management Standards Committee is awaiting the results of a field test on this, which is being performed by the New Jersey Department of Transportation.

OLD BUSINESS

A. Status of the Special Area Standards Application for the Township of Harding, Morris County:
 Chairman Kirkpatrick reiterated that the Stormwater Management Standards Committee is working on the special area standards for Harding Township, as noted in its report above.

B. Comment and Response Document on the Proposed Annual Amendments to the Residential Site Improvement Standards:

It was noted that the comment and response document was included in today's meeting packet for Board member perusal. The members were requested to be prepared to discuss it at the next Board meeting. Committee chairs were directed to hold meetings to discuss it prior to the next Board meeting if they deemed this necessary.

NEW BUSINESS

A. Petition for a Rule Amendment from the New Jersey Builders Association:

The New Jersey Builders Association (NJBA) has petitioned the Department of Community Affairs (DCA) to establish explicit procedures for amending the RSIS and has offered specific recommendations for such regulation. Some members felt that this was unnecessary because the Board already follows a process that is open to public input and only approves amendments from an authoritative source. The Board has operated within the rules and it has worked quite well. They felt that the Board does not need to be encumbered further. The makeup of the Board includes representatives of different constituencies so that all concerns would be protected.

Other members contended that the NJBA is making a good point and that the recommendations should be followed. Some amendments that are made are merely based on another professional's opinion, not taken from a source that is considered authoritative. It would be beneficial to have information from authoritative sources as the NJBA suggests in front of the Board at the time of making its annual changes to the standards.

Mr. Connolly made three observations on the rule-making process: 1) The Board is given the authority to write the rules for the RSIS, but the Commissioner of the DCA must follow formal rule procedures which are well defined. 2) Anyone can request a change. The cost-benefit analysis is supposed to be done by the Board because it is a balanced board that considers diverse interests. 3) The Board is supposed to rely on authoritative standards albeit, in its deliberations, having an authoritative source has not always been a primary concern. He did express a reservation over making this requirement jurisdictional (i.e., insisting

on it before any suggestion can be heard).

Chairman Kirkpatrick called for a vote to refer this issue for DCA staff to review the procedures and make suggestions/recommendations. Ms. Valerie Hrabal made this motion and Mr. Frank Doyle seconded it; the vote was unanimous.

- B. Special Area Standards Request from the Township of Lumberton, Burlington County:
This agenda item was addressed under Committee Reports.

- C. Applicability of the RSIS to the Improvement of Existing Streets:

Dr. Moskowitz gave the background on a project in Montgomery Township that the Streets and Parking Standards Committee reviewed at their last meeting. The Committee was unable to reach a decision, so the applicant has requested guidance on this situation from the Board. The applicant wants to build 20 houses on a cul-de-sac that stems from a single-access, looped road. The policy question is whether existing road patterns should be made to comply with the standards when a development is being expanded. The specific issue concerns whether there should be more than one means of access for fire and emergency vehicles to serve this additional development. Some Committee members felt that the developer is violating the standards.

Other members felt that only the proposed development needs to be evaluated using the standards. The standards should not be used to look at the entire street network.

The opposing view was that the developer should not be able to take an existing development that does not comply with the standards further out of compliance. The addition of a divided road, in this case, addresses the problem. A developer should not be able to extend an existing street without complying with the RSIS.

The Board reemphasized its position that it will not act as an interpretive body on a specific project. However, the Board felt that the underlying issue of the applicability of the standards to existing development needs to be addressed.

Mr. Bob Heibell of Van Cleef Engineering stated that his firm submitted the application in question. He gave some background on the issue, noting that the physical map for the subdivision was filed in 1994.

Mr. John Manock stated that he is the homeowner of Lot 9, next door to the wetlands area in the

development. He added that he also sits on the Montgomery Township Planning Board. He said that “cul-de-sac” is defined and limited for public safety. Currently, there are 29 homes on the loop street. The proposed development would add 20 homes. Mr. Manock felt that the argument for the preexisting agreement does not hold water. Any new development should follow the RSIS. The stub road indicates that it was planned to be finished. That stub road was meant for additional access to Belle Mead-Griggstown Road. Mr. Manock added that the real issue is a public safety concern versus continuation of the stub road.

Joanne Harkins, PP, AICP, Director of Land Use and Planning at the NJBA, stated that a single-entrance development was never considered the same as a cul-de-sac. She said that, in such a situation as this, according to the Rutgers Model Subdivision and Site Plan Ordinance (MSSPO) on which the RSIS is based, the original documents indicated that single-entrance developments were permitted to be constructed with an ADT of half what would otherwise be used.

A Board member felt that the developer can be asked by the municipality to address any problems with the existing development as off-site improvements under the Municipal Land Use Law (MLUL). By applying the RSIS to the existing as well as proposed portions of a development, the standards would render parcels of land, such as the one presented, undevelopable. This was not the intent of the standards. If the developer refuses to address prescribed items, the case can go through the courts. DCA staff could do a clarification paper on the policy issue. The clarification would state that the standards only address the proposed development. If the municipality deems that the new development requires alterations to existing, adjoining development, this should be accomplished by requiring off-site improvements consistent with the MLUL.

Dr. Moskowitz made a motion to dispatch a letter to the municipality indicating that the proposed development violates the intent of the RSIS. Other action might be for the developer to apply for a wetlands permit or to build a divided way. There was no second to Dr. Moskowitz’s motion.

Mr. Connolly made a motion that the standards be applied only to the development proposed. Any off-site improvements should be addressed as allowed under the MLUL. Dr. Olenik seconded the motion and all were in favor except Mr. Michael Amorosa, who abstained.

D. Resolution for Joseph F. Wiseman:

Mr. Connolly read the resolution of appreciation for former Board member Joseph F. Wiseman, P.E., representative of the New Jersey Society of Professional Engineers, Inc. It was noted that Mr. Wiseman's contributions to the water supply and sanitary sewers standards, and well as the stormwater management standards, were particularly significant, and that they would not be what they are today without his involvement. *Dr. Moskowitz made a motion to approve the resolution and Mr. Connolly seconded it; the vote was unanimous.*

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick asked for a motion to adjourn. A motion was made and seconded; all were in favor. The meeting adjourned at 11:49 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of June 15, 2000

LOCATION

Conference Room 129
Department of Community Affairs (William Ashby Building)
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Frank Doyle
Gregory Fehrenbach
Leslie McGowan
Harvey Moskowitz
Thomas Olenik
Peter Reinhart
Valerie Hrabal

DCA Staff:

Keith Costill, Deputy Attorney General
Michael Baier
Mary Ellen Handelman
John Lago
Mitchell Malec

Guests:

Richard L. Palatine
Representative

State Soil Conservation Committee, New Jersey
Department of Agriculture
Advanced Drainage Systems, Inc.

CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 10:04 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 23, 2000 meeting. There were none. *A motion to approve the minutes was made by Mr. Frank Doyle and seconded by Mr. Gregory Fehrenbach; the vote was unanimous.*

COMMITTEE REPORTS

Stormwater Management Standards Committee:

The Stormwater Management Standards Committee met this morning. The Committee is concerned about the revisions to the New Jersey Department of Environmental Protection's (DEP) Best Management Practices Manual (BMPM). The Committee plans to meet with the DEP to discuss the BMPM proposed revisions. The Committee also discussed the special area standards application from the Township of Harding, Morris County. The Committee has been provided with several stormwater management projects from various locations which will be studied: a multifamily project, an assisted-living project, a

project including one-half-acre lots with sewers, and a mixed-use development. The Request for Proposal will seek firms that do development work, not theorists.

OLD BUSINESS

- A. Status of the Special Area Standards Application for the Township of Harding, Morris County:
Chairman Kirkpatrick reiterated that the Stormwater Management Standards Committee is working on the special area standards for Harding, as noted in its report above.
- B. Resolution on Maintenance Responsibility for Stormwater Management Facilities:
Dr. Harvey Moskowitz noted that, at the last Board meeting (March 23rd), the action on adopting a resolution on stormwater management facility maintenance responsibility was postponed; the issue was voted on at the February 17th Board meeting, but not yet memorialized.

The Board reiterated the areas that have been a concern. There is concern that there is no authoritative source that can be used as justification for assigning maintenance responsibility, though not all Board members believe this is necessary. There is concern about whether the Board has the ability to prohibit the formation of homeowners associations for the sole purpose of maintaining stormwater basins. Finally, the Board is concerned about making sure the rules are equitable and do not unduly burden homeowners or municipalities.

Another area of concern is the development of new DEP Phase II stormwater rules. The Board is concerned because these rules will likely result in additional treatment devices beyond detention basins. These additional structures may add to the frequency and complexity associated with maintaining stormwater management facilities.

Because of the unresolved issues and the potential effect that the DEP Phase II regulations may have on the burden that stormwater facility maintenance presents, Mr. William Connolly made a motion that the memorialization of the February 17th vote be tabled until such time as the BMPM is revised and in effect; the Board can then reconsider it. Dr. Moskowitz seconded the motion. The vote was unanimously approved.

NEW BUSINESS

A. Review of Article for Publication: “Residential Site Improvement Standards: How Did We Get Here and How is it Working Now?”:

Chairman Kirkpatrick asked for comments on the article he and Mr. Fehrenbach wrote for publication in the New Jersey State League of Municipalities magazine, New Jersey Municipalities. A number of Board members felt the first five paragraphs, which characterized areas where the State has enacted programs that were previously up to the municipalities, were inappropriate. The Board felt that if the article was to present the Board’s views, these paragraphs should be deleted. It was also suggested that the article should emphasize the procedures for granting waivers, *de minimis* exceptions, and agreements to exceed. There seems to be some confusion at the municipal level with respect to how and when these actions are applied.

B. Wellfleet Developers – Clarification of Street Requirements:

Chairman Kirkpatrick distributed to the Board members a letter he had received from James M. Cahill, PLS, PP, Vice-President of Wellfleet Developers, Inc. Chairman Kirkpatrick stated that the Streets and Parking Standards Committee will address some of the questions posed in the letter at its meeting today following the Board meeting.

INFORMATION

Mr. Connolly informed the Board members that the Department of Community Affairs has just received a letter from the New Jersey Builders Association making a formal request for a procedural rule on the amendment process. This rule petition will be published in the New Jersey Register in July and will be heard at a future Board meeting.

Another letter was received from the Builders Association which dealt with part of a garage being counted as a parking space. This letter will be considered as a comment on the current proposed amendments to the Residential Site Improvement Standards.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick asked for a motion to adjourn. The motion was made by Mr. Doyle, which was seconded; 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 March 23, 2000

LOCATION

Conference Room 129
Department of Community Affairs (William Ashby Building)
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Frank Doyle
Gregory Fehrenbach
Michael Amorosa
Leslie McGowan
Harvey Moskowitz
Thomas Olenik

DCA Staff:

Keith Costill, Deputy Attorney General
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Mitchell Malec

Guests:

Jennifer Jaroski
Joanne Harkins
Tri-State Transportation Campaign
New Jersey Builders Association

Ken Meiser
John Cantwell
Susan M. Weber

Hill Wallach
New Jersey Society of Municipal Engineers
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 9:49 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 17, 2000 meeting. There were none. *A motion to approve the minutes was made by Mr. Frank Doyle and seconded by Mr. William Connolly; the vote was unanimous.*

COMMITTEE REPORTS

Stormwater Management Standards Committee:

Chairman Kirkpatrick reported on the March 17th meeting of the Stormwater Management Standards Committee at which was discussed the special area standards for the Township of Harding, Morris County. Also under discussion were polyethylene (PE) pipe and detention basin side slopes. He noted that the

Committee has received information on the larger diameter PE pipe size and will discuss it at its next meeting. The concern with the larger pipe size is that, if it is not embedded properly, the weight from above may misshape the pipe and decrease flow capacity. Test installations are to be done by the New Jersey Department of Transportation.

At the last Board meeting, Chairman Kirkpatrick noted that information had been requested on the pitch of basin side slopes and the types of mower apparatus that could safely be used on these slopes. After reviewing information from various mower manufacturers, the Committee recommends that the current slope of 18.4 degrees, or one vertical to three horizontal, is sufficient.

OLD BUSINESS

- A. Status of the Special Area Standards Application for the Township of Harding, Morris County: Chairman Kirkpatrick stated that the Stormwater Management Standards Committee is giving the Township of Harding every opportunity to make its case and is working diligently to resolve the outstanding issues. Harding Township wants to increase the pollutant removal rates in its watershed to 90 percent, which is above what is required for any other watershed in the State. The New Jersey Department of Environmental Protection requires 80 percent. Harding wants to use infiltration practices, such as sand-filter devices, some of which need frequent maintenance. In addition, snow or freezing rain adversely affect the function of sand filters. There is not a workable technical proposal yet. Mr. Connolly added that water balance is a third issue with the municipality's application: maintaining groundwater levels before and after development. Initially, the Township had said that it must get 70 percent of the rainfall back into the ground. It was found that this amount of recharge was unattainable in all areas and the municipality has come to accept standards that vary by soil type.

In working with this application, the Committee has agreed that the special area standards would not just be for the Township of Harding, but for areas in the nine other municipalities that are part of the Great Swamp. Mr. Pete Messina of the Ten Towns Great Swamp Watershed Committee and Ms. Julia Somers of the Great Swamp Watershed Association were present at the last Committee meeting and agreed that what is allowed for Harding Township must be able to be applied to all the municipalities in the Watershed. The density and development patterns in Harding are different than some of the other towns. Therefore, this special area request must accommodate the various development densities found in the Great Swamp Watershed. The Committee has draft standards for the Great Swamp and is in the process of reviewing the effect of these standards on various types of residential development. A request for proposal will go out soon to

hire engineers to perform this analysis.

B. Resolution on Maintenance Responsibility of Stormwater Management Facilities:

Chairman Kirkpatrick announced that Mr. Peter Reinhart, who is absent today, has requested that discussion on this agenda item be put off until the next Board meeting. Mr. Fehrenbach pointed out that the agenda says action will be taken on this item today. *Dr. Harvey Moskowitz made a motion to postpone this item until the next meeting and Mr. Michael Amorosa seconded it. All were in favor.*

C. Draft Annual Revisions to the Residential Site Improvement Standards:

Chairman Kirkpatrick noted that the annual revisions are due in June. He asked for a motion to send the package to the Department of Community Affairs Commissioner.

The Board discussed why the "Attached Townhouse" category in Table 4.1 was taken out. The Board also noted that the latest edition for the Institute of Transportation Engineers (ITE) Trip Generation is the sixth, but the data used for Table 4.1 in the Residential Site Improvement Standards (RSIS) still lists the fifth edition from 1991. The numbers should be checked to see if they are the same. This table should list "Residential Townhouse" instead of "Condominium." Mr. Gregory Fehrenbach pointed out that the matching definitional changes on page 3 of the draft must be made for any changes made to page 2. It was decided to remove the word "Condominium" from the table, and in the Definitions section to replace "Apartment" following "Low-Rise," "Mid-Rise," and "High-Rise" with "Multifamily." Mr. Michael Baier stated that the table will reference the new edition of Trip Generation for the peak rates and he will check the numbers to make them consistent with the new edition. Dr. Moskowitz said that the ITE definition for "Retirement Community" does not accurately define what this is in New Jersey. Mr. Connolly responded that this definition describes ITE's data set; this definition should not be changed at this time. The Streets and Parking Standards Committee may want to review the definition for a future change. *A motion was made by Ms. Leslie McGowan, which was seconded by Mr. Doyle, to approve these changes (with corrections to pages 2 and 3 as noted above); the vote was unanimous (8 yeas).*

It was noted that a piece of the annual change package is still forthcoming. The report from the consultant, SWK, on pavement thickness included a performance-based methodology that the Board may want to include. This would give users of the standards the methodology for designing the pavement as well as the "manual-of-accepted-practice" approach that is in the current proposal. The Site Improvement Act directs the Board to make the standards performance based, insofar as possible. The RSIS follows a specification-design approach as opposed to a performance-based approach. *Mr. Connolly made a motion to accept SWK's recommendation to include the American Association of State Highway and*

Transportation Officials' design procedure in the standards; the motion was not seconded.

Mr. Fehrenbach asked about the process following this vote to recommend the annual amendments to the Commissioner. He was told that, if she approves them, the Commissioner then signs them and they are put in the New Jersey Register. The Commissioner must accept the Board's recommendations unless there are safety concerns. Mr. Fehrenbach asked if there are any such issues. No one knew of any. Deputy Attorney General Keith Costill explained that, if the Commissioner did change any of the draft amendments, the Board could override it with a two-thirds vote. *Chairman Kirkpatrick asked for a motion to send the packet of amendments to the Commissioner as the second annual amendments to the RSIS. This motion was made by Dr. Moskowitz and seconded by Mr. Amorosa; the vote was unanimous.*

BOARD MEMBER COMMENTS

Chairman Kirkpatrick referred to the December 1999 letter from DAG Costill. He said that, since this letter is a public document, he would like to bring it to planning board meetings and training seminars throughout the State in an effort to provide more meaningful discussions. There was no objection to his doing this. Mr. Doyle added that he would like to print this letter in the New Jersey Planning Officials newsletter.

Chairman Kirkpatrick noted that the Board had discussed, at its last couple of meetings, changing the procedures for answering letters directed to the Board. The responses, which are drafted by Department of Community Affairs' (DCA) staff, are now being sent to the committee chair for approval before mailing. Dr. Moskowitz commented that Mr. Baier has been following this procedure with his correspondence and it has been working out fine.

PUBLIC COMMENTS

Mr. Ken Meiser of Hill Wallach spoke to the Board on the Lafayette Hills residential project in the Borough of Hawthorne, Passaic County. He requested the assistance of the Board and of Dr. Moskowitz, Chair of the Streets and Parking Standards Committee. There is a dispute about the classification of streets in the development. The Board was concerned about issuing an opinion on the matter, since it is under litigation. In this case, the Board agreed that DCA staff should draft a letter concerning the street classification.

Mr. Connolly made several arguments that these issues do not belong before the Board and that the Board should not provide an interpretation on an issue under the court's jurisdiction. It was also noted by the DAG that the Advisory Board is charged with recommending rules that are then promulgated as regulations. The Board does not adjudicate meaning. It should

continue to assist people who are trying to apply the standards, but should not interpret the rules when matters are being litigated. The Board can also recommend changes to the regulations where they are unclear. Mr. Fehrenbach agreed it was clear that it would not be appropriate for the Board to be involved in this case. *He made a motion that DCA staff should continue to give helpful advice. For the case now under discussion, no further correspondence should go out unless Mr. Connolly and DAG Costill feel it is appropriate. Ms. McGowan seconded the motion.* Noting the amount of letters the Board receives and responds to, Mr. Doyle agreed that the Board should not go beyond giving technical advice. *The vote was called for and all were in favor except Mr. Doyle, who abstained.*

Ms. Jennifer Jaroski of Tri-State Transportation Campaign expressed concern over the safety of pedestrians when roads are widened. She stated that accidents involving pedestrians are often fatal when speed limits exceed 35 miles per hour. Dr. Moskowitz asked how this view is reconciled with that of the bicycle lobby, which requires streets to be widened to make bikeways safe. Ms. Jaroski stated that she is not encouraging streets to be narrower, but was asking that they not be widened. Mr. Amorosa explained that, for cars and bicycles to share the road, the road must be wider.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick asked for a motion to adjourn. The motion was made by Mr. Amorosa and seconded by Mr. Fehrenbach; all were in favor. The meeting was adjourned at 11:31 a.m.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of February 17, 2000

LOCATION

Conference Room 129
Department of Community Affairs (William Ashby Building)
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Frank Doyle
Gregory Fehrenbach
Michael Amorosa
Leslie McGowan
Harvey Moskowitz
Thomas Olenik
Peter Reinhart
Valerie Hrabal

DCA Staff:

Cynthia Wilk, Assistant Director, Division of Codes and Standards
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Mitchell Malec
Joyce Paul

Guests:

John Waltz	Bike New Jersey
Jerry Philkill	New Jersey Society of Municipal Engineers
R. Jerry Frost	Advanced Drainage Systems, Inc.
Susan M. Weber	New Jersey Department of Transportation, Bureau of Statewide Planning
Joanne Harkins	New Jersey Builders Association
Richard L. Palatine	New Jersey Department of Agriculture, State Soil Conservation Committee Staff
John J. Cantwell	New Jersey Society of Municipal Engineers/Remington & Vernick Engineers

CALL TO ORDER

Mr. Robert 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 date, time, 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 9, 1999 meeting. *A motion to approve was made by Mr. Frank Doyle and seconded by Mr. Gregory Fehrenbach.* Chairman Kirkpatrick made the following corrections to the minutes. On page 4, under Status of the Special Area Standards Application for the Township of Harding, Morris County, the second sentence is amended to read: "The work done by the consultant answers questions of

what ~~must be done~~ is being proposed about infiltration and water quality.” On page 7, under Pavement Thickness, the third sentence is deleted: “~~The Society of Municipal Engineers has been working with a consultant.~~” Mr. Peter Reinhart and Mr. William Connolly made another change to this paragraph in the second sentence: “~~There are two authorities~~ Two sources on this subject: are the American Association of State Highway and Transportation Officials (in the Standard Specification for a Policy on Geometric Design of Highways and Streets) and the New Jersey Society of Municipal Engineers (in the Asphalt Handbook for County and Municipal Engineers). *All were in favor of these corrections and the vote was unanimous.*”

COMMITTEE REPORTS

A. Stormwater Management Standards Committee:

Chairman Kirkpatrick reported on a meeting held January 20th at which the annual changes were discussed. Discussion items also included polyethylene pipe under roads, new standards for polyethylene pipe, and side slopes for detention basins; stormwater facilities maintenance; and the special area standards for Harding Township.

B. Water Supply and Sanitary Sewers Standards Committee:

Dr. Thomas Olenik reported on a meeting held January 20th. The following changes to the standards were considered: molecularly oriented polyvinyl chloride pipe, common water supply and sanitary sewer lines, and fire hydrant spacing. Concerning the last item, he reported that the Water Supply and Sanitary Sewers Standards Committee still wanted to review the proposed change. He told the Board members that the Committee would need one more meeting to discuss this issue. It was noted that there is some difference of opinion within the fire service community on fire hydrant spacing as well.

C. Streets and Parking Standards Committee:

Dr. Harvey Moskowitz reported on a meeting held February 1st concerning the following proposed changes: pavement thickness, density ranges for determining intensity of development, garage size, street types, sidewalks (separation from street), sight triangles, the designing of streets five miles per hour over the anticipated posted speed limit and its adverse effects on traffic calming, and bikeways/bike safety; also discussed was the issue of street layouts for condominium and townhouse developments.

Regarding street pavement thickness, Dr. Moskowitz stated that the Streets and Parking Standards Committee is recommending the use of the pavement thickness standards prepared by the New Jersey Society of Municipal Engineers, and that developers be allowed the option of using either this one or the American Association of State Highway and Transportation Officials (AASHTO) standard. It was noted

that the Residential Site Improvement Standards (RSIS) currently allow either to be used. The formula in the Asphalt Handbook for County and Municipal Engineers was recently revised so that there is no longer a significant difference between it and AASHTO's Standard Specification for a Policy on Geometric Design of Highways and Streets. The Committee also decided that, with the use of the Asphalt Handbook, the rules will not require the base course to be placed in two lifts.

Mr. Connolly clarified that the consultant that was hired, SWK Consultants, recommended an engineered methodology based on AASHTO be incorporated into the RSIS. The SWK report also included a table that would become a manual of accepted practice if incorporated into the standards. SWK's results were based on a 20-year life, but did not account for "staged" construction. When the Society of Municipal Engineers revised its handbook, it also used a 20-year life. However, it did this assuming that the base course had to withstand the construction traffic for a three-year period; the full thickness then would have to last for an additional 17 years. Since the goal of both reports is a 20-year life, if the assumptions are the same, there should not be any difference. He also noted that there appeared to be a discrepancy between the number of trips by trucks in the engineers' calculations and the data supplied by the New Jersey Builders Association.

Mr. Jerry Philkill of the New Jersey Society of Municipal Engineers stated that the data that was given them by the Builders Association was fairly broad in range. The Municipal Engineers' assumption is on the high end of that range. Mr. Connolly clarified that he was not saying it was not a fair assumption, but it was based on numbers that were different than what the Builders Association reported. Chairman Kirkpatrick said that he did not believe this difference would significantly change the outcome.

Mr. Connolly suggested that it be recalculated. He will ask the consultant to revisit this issue based on staged construction, and 20 and 50 heavy trucks per dwelling to see if it makes a difference. Chairman Kirkpatrick asked Dr. Moskowitz if it is worth the recalculation effort. *Four members felt it was necessary to recalculate the formula; six felt that enough has been done on this.* Chairman Kirkpatrick suggested that the DCA will do the recalculations. Mr. Connolly indicated that the revised RSIS will include an engineered design methodology and an accepted practice table with the same thickness values as calculated by the Municipal Engineers.

Regarding item #8 of the Committee's report, Dr. Moskowitz noted that the New Jersey Department of Transportation (DOT) wants the standards revised to include wider streets to encourage bike travel. The RSIS cannot mandate wider streets for bikes, but if the municipality wants to include provisions for wider streets for bicycle travel as part of the municipal master plan, then the DOT standards for wider streets

should be followed.

A related issue that was raised at the Committee meeting was standards for street layouts for condominium and townhouse developments. Chairman Kirkpatrick, who raised this issue, felt that there should be standards for access to private as well as public residential units, such as condominiums. The Board needs to address this as soon as possible. Mr. Connolly agreed. He said that he did not think that access to multifamily development was dealt with sufficiently from the beginning. He stated that this item is not on the open-issue list because it is late in the year to begin discussion on the subject for this year's annual changes to the standards. The Board felt it should be added to the list for next year.

OLD BUSINESS

- A. Status of the Special Area Standards Application for the Township of Harding, Morris County:
 Chairman Kirkpatrick announced that the consultant retained to review the suggested ordinance has done a supplement to it. He said he has received comments from each of the Stormwater Management Standards Committee members which will be shared with the consultant and other Committee members. The Committee will discuss this at its next meeting. The consultant will be present to discuss the Committee member questions. Chairman Kirkpatrick added that whatever is going to be considered to be done for the Township of Harding in Morris County needs to be useable for each of the other nine towns that drain into the Great Swamp Watershed.
- B. Maintenance Responsibility of Stormwater Management Facilities:
 Dr. Moskowitz referred to his memorandum of January 18th in the meeting packet, stating that it has specific language on how the regulations would read if accepted. He noted that Mr. Doyle's memorandum of January 20th (also included in the meeting packet) uses language from the Rutgers Model Subdivision and Site Plan Ordinance (MSSPO) to address this issue. The general principles of Dr. Moskowitz's proposal are that, if the stormwater management facility is located on private property, maintenance is the responsibility of the private owner. When the facility is on public land, the responsibility is with the public entity.

The Board had several questions on the proposal, such as placing the basin on a separate lot as opposed to having the basin on a homeowner's lot. Several Board members commented that placement on a homeowner's lot makes the lot undesirable. Questions concerning the maintenance of underground pipes and retention structures were also raised. There was concern about whether a homeowner's

association could really maintain these pipes and structures. In addition, there was concern about maintenance of basins when the depth of the basin would classify it as a dam. Based on these concerns, the Board agreed, for purposes of discussion, that detention basins that are Class I, II, and III dams would be maintained by the municipality and all underground piping would be the responsibility of the municipality.

Some Board members questioned if the Board is getting too deep into telling homeowners and municipalities what to do. They felt that maintenance and upkeep is addressed appropriately in the current standards. They pointed out that, in the past and prior to the RSIS, developers and municipalities worked together and that the language from the MSSPO (attached to Mr. Doyle's memo) is sufficient. In addition, it is difficult to write a rule that covers each situation. They felt that the proposed solution is too complex.

There was a question about whether municipalities have a regularly scheduled process for maintenance. It was felt that this varied from town to town.

A member stated that the current practice of creating an agreement works well. There are towns that have made it clear that basin maintenance is the responsibility of the homeowners associations. Other municipalities take over the responsibility because it is that important to them. It was pointed out that the flaw in such agreements is that one of the parties is not present – the homeowner.

There was discussion about who is better able to maintain the facilities. Several members felt that the municipality is better able to maintain the basins. However, a Board member reported that the commercial properties are a problem, but the residential basins are generally maintained. Other Board members felt that, as detention basins become more of a pollution control method, homeowners associations would become a less appropriate choice to maintain drainage systems. While homeowners associations recognize when a basin is causing a flood problem, they will not recognize when a basin does not provide pollution control.

By way of a show of hands, the Chairman asked how the Board members felt about Mr. Fehrenbach's viewpoint to leave the standards as they are; five were in favor of it and four were not. The Chairman then asked how many were in support of Mr. Doyle's stance to incorporate the language from the Rutgers MSSPO; one was in favor. Finally, the Chairman asked how many were in support of Dr. Moskowitz's proposal; three were in favor. Mr. Reinhart then made a motion that the presumption will exist that all stormwater management facilities are the responsibility of the municipality, except those maintained by a homeowners association; however, the homeowners association may not be formed for the sole purpose of maintaining a stormwater facility. Dr. Olenik seconded the motion.

Mr. Fehrenbach reiterated his fear that this action goes beyond the Board's authority. He felt the Board should not say that a homeowners association cannot exist solely for the purpose of maintaining a stormwater facility. The Deputy Attorney General (DAG) will advise as to whether it has the authority. The Board felt that a homeowners association should not be formed for the purpose of maintaining basins, which might include some other *de minimis* purpose in order to get around this language.

Chairman Kirkpatrick stated the policy to be voted on as: "All stormwater facilities shall be publicly maintained unless there is a homeowners association. The homeowners association must accept the responsibility if it exists for purposes beyond simply maintaining the basin." The vote was called for and six were in favor, four were against. The Maintenance of Stormwater Management Facilities Subcommittee will write the language for this resolution.

C. Pavement Thickness:

Dr. Moskowitz made a motion to allow the use of the Asphalt Handbook with the option of the applicant submitting numbers according to the ASSHTO standard and without the limitation that the pavement be placed by means of three inch lifts; Mr. Michael Amorosa seconded the motion. There was concern about cost; though the difference might not be large, there would likely be an additional cost based on the Municipal Engineers' handbook. Other members disagreed that it would cost more. There was also a concern about whether the Municipal Engineers' handbook is an authoritative source. But it was noted that the Asphalt Handbook is based on the Asphalt Institute and has been used as an authoritative source in the State of New Jersey. Mr. Connolly felt that it is really an issue of the assumptions that are accepted to design the pavement. The Board must take into account that the first three years are not the full thickness of the pavement. Once past that, whether one calculation or the other is used does not make much difference. The vote was called for and all were in favor except Mr. Reinhart, who abstained.

D. Report on Meeting with Representatives of the New Jersey State League of Municipalities and the New Jersey Planning Officials:

Chairman Kirkpatrick reported on the meeting held January 7th. He stated that one of the issues was the influence of the Department of Community Affairs (DCA) on the opinions of the Board. In the minutes of the December 9, 1999 Board meeting, the Board discussed the DAG's letter on compliance by the municipalities with the RSIS. Chairman Kirkpatrick explained that the DCA provides the framework for the rule proposal process, and offers the Board technical and administrative support. He still felt that responses to letters should be signed by a committee chair. An article should be written and submitted to the New Jersey Municipalities magazine to deal with some of the misconceptions brought up at the meeting.

Part of what came out of the meeting was the perception that, when there have been discussions between the DCA and the League or the Planning Officials, they have always been with the DCA Commissioner, which gives the appearance of the DCA making these decisions. Mr. Fehrenbach made a suggestion: if there are any future meetings with the DCA on the RSIS, the Board Chairman should be present. There was concern expressed that the decisions the Board is making sometimes appear to have been made by the DCA. It should be made clear somehow that it is the Board making these decisions, not the DCA.

Chairman Kirkpatrick delineated the process for answering correspondence, saying that a staff person should write the response and fax it to the committee chair. The chair will have two or three days to initial it and send it back. That way, the chair sees it before it is a *fait accompli*. Mr. Connolly agreed that Mr. Fehrenbach had a good idea with making sure that the Board is represented at all future meetings with these organizations. Mr. Connolly was agreeable to the change in procedure if it would further the acceptance of the RSIS by the municipalities. He pointed out that the full Board has always received copies of all correspondence and will continue to get copies. This gives the Board the opportunity to see the letters and to determine whether some clarification or change to the rules is needed. The new procedure will begin immediately.

E. Discussion of Draft Annual Revisions to the RSIS:

Mr. Connolly stated that the Board should go through the issues that need to be resolved, as it may be able to vote on them today. Dr. Moskowitz noted that, for the Streets and Parking Standards, he is waiting for information on curb radii and the impact of changing the development density ranges. Mr. Connolly felt that the Board may never get information on curb radii from the DOT. He said that the DCA staff would write the proposed change on density ranges for greater than four to eight.

For Water Supply and Sanitary Sewers Standards, a member asked if changing the distances between fire hydrants would affect insurance rates. Mr. Connolly said that the people in fire service do not always want to do this because the water company charges for each hydrant. He felt that the Board should study this for another year.

For Stormwater Management Standards, Mr. Baier informed the Board that the DOT basically does not allow any type of plastic pipe to be used. Mr. R. Jerry Frost of Advanced Drainage Systems, Inc. explained that the plastic pipe that was previously utilized for stormwater used to be a spiral type, which could unwind under older conditions. There have been changes in manufacturing, and in backfill materials and compaction. A new type of pipe is now used and is scheduled to be tested by the DOT. He agreed to provide the Board with research and information on the pipe's performance. Mr. Connolly determined

that the information given on pipes at this time is not enough for this change cycle. He asked Mr. Frost to provide information on plastic pipe to Mr. Baier for consideration during the next annual change cycle.

A member stated that the back pages of the annual changes document refer to lawnmower apparatus that are for residential use, not for commercial use such that a municipality would use. Mr. Connolly agreed that staff can obtain more information on commercial equipment. It was suggested that the best thing to use on detention basins is what is used on golf courses, the ride-on type mowers. *Mr. Fehrenbach made a motion that the slope be changed to 5:1; Mr. Connolly seconded the motion. Dr. Olenik moved to table this issue for study because 5:1 is too flat. It was also suggested to look at the issue of equipment further. A show of hands indicated that a majority of the Board members were in favor.*

BOARD MEMBER COMMENTS

Dr. Moskowitz said that an issue came up that he would like to raise with the Board. He spoke of a new development and how the streets were being labeled (residential access street versus rural residential lane). He felt that street designation decisions should be left up to the applicant. This issue will be discussed at the next Streets and Parking Standards Committee meeting.

Ms. Hrabal pointed out an anomaly in the RSIS between 5:21-4.17, Curb Construction Standards, on page 56 and Figure 4.1, Mountable Concrete Curb, on page 60, which calls for something different in terms of joints for curbs. This correction will be added to the package of amendments.

Ms. Hrabal made a final point that the State standards should be compatible with county requirements. She related personal experiences where this has led to problems and project delays.

PUBLIC COMMENTS

Mr. John Waltz of Bike New Jersey stated that language regarding bikeways should deal with bike-compatible roadways. Striping designated bikeways is not the only way to address bicycle access and routes on roadways. Dr. Moskowitz asked him to write down his comments and submit them to the Committee. He added that he will talk with him after the Board meeting.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick asked for a motion to adjourn. The motion was made by Mr. Reinhart and seconded by Mr. Doyle; all were in favor. The meeting was adjourned at 12:04 p.m.

A date has been scheduled for the next Site Improvement Advisory Board meeting at 9:30 a.m. on Thursday, March 23, 2000 in Conference Room 129 of the Department of Community Affairs (William Ashby Building) at 101 South Broad Street in Trenton, New Jersey. If the Chairman decides to use this meeting date, notices will be sent out to all interested parties.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of December 9, 1999

LOCATION

Conference Room 134
Department of Community Affairs (William Ashby Building)
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
Frank Doyle
Gregory Fehrenbach
Michael Amorosa
Leslie McGowan
Harvey Moskowitz
Peter Reinhart
Joseph Wiseman
Valerie Hrabal

DCA Staff:

Keith Costill, Deputy Attorney General
Cynthia Wilk, Assistant Director, Division of Codes and Standards
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
Andrew Jaskolka
John Lago
Mitchell Malec

Guests:

R. Jerry Frost, P.E.

John Cantwell, P.E.

Ted Dudek

Richard Palatine

Joanne Harkins, P.P.

Advanced Drainage Systems, Inc.

New Jersey Society of Municipal Engineers

Schoor-DePalma, Inc.

State Soil Conservation Committee, New
Jersey Department of Agriculture

New Jersey Builders Association

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:34 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 date, time, 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 MEMBER

Chairman Kirkpatrick welcomed and introduced the replacement for retired Board member Armand Fiorletti: Mr. Michael Amorosa, representative of the New Jersey Association of County Engineers, Inc. Mr. Amorosa is the County Engineer and Director of the Somerset County Department of Public Works.

Mr. Frank Doyle was also welcomed back by the Chairman following his hospitalization.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the August 31, 1999 meeting. There were none. *A motion was made by Mr. Joseph Wiseman, which was seconded by Mr. Peter Reinhart, to approve the minutes; all were in favor except Mr. Doyle, who abstained due to his absence from that meeting.*

COMMITTEE REPORTS

A. Waiver Review Committee:

Chairman Kirkpatrick informed the Board that the Waiver Review Committee held its first meeting and drafted Resolution #99-1 for Board approval. This waiver was requested by the developer, Mr. Vincent Rasa, who has made application to the Washington Township Planning Board in Morris County for a 26-lot subdivision of Lots 4 and 9 in Block 37. He requested a waiver from the Residential Site Improvement Standards (RSIS) requirement that not more than 20 dwellings be served by a dead-end water line [N.J.A.C. 5:21-5.3(b)]. Chairman Kirkpatrick explained the details of the situation to the Board members.

Mr. Gregory Fehrenbach asked if any analysis was done to allow this waiver to take place. Chairman Kirkpatrick explained that the total number of dwellings being served by the dead-end main would be 26, instead of the 20 the standards allow. The franchisee is responsible for bringing water to the site by extending the municipal utility authority (MUA) transmission main. However, to require him to also loop this main would constitute an undue hardship. The use of private wells is out of the question, as a superfund site adjoins the property. In addition, the MUA has determined that it has adequate volume and conveyance capability to serve all 26 dwellings proposed on the site.

Chairman Kirkpatrick requested a motion to approve, which was made by Mr. Wiseman and seconded by Dr. Harvey Moskowitz; the vote was unanimous.

B. Streets and Parking Standards Committee:

Dr. Moskowitz reported on a meeting held October 28th with representatives of the New Jersey Society of Municipal Engineers.

Referring to Mr. Michael Baier's memorandum of November 17th regarding the meeting with representatives of the Society of Municipal Engineers, Dr. Moskowitz noted that one of their concerns dealt with street hierarchy. The questions are whether or not a particular street should be a neighborhood street or a residential access street, and whether this determination should be

made by the municipality or the developer. Chairman Kirkpatrick noted that the Streets and Parking Standards Committee's recommendation on a number of issues, such as cartway width, were deferred for full Board discussion. Mr. Reinhart suggested that the Committee meet again before making any final recommendations to the Board, as a new member had been absent from its last meeting. Dr. Moskowitz asked the Chairman if he wanted Committee recommendations even when the Committee feels the full Board should discuss the issue and he was told "yes."

C. Water Supply and Sanitary Sewers Standards Committee:

Referring to the summary in the meeting packet, Mr. Wiseman reported on a meeting held November 19th with the Municipal Engineers, stating that all but the sixth item are ready for Board vote. Chairman Kirkpatrick decided to put off voting on these items, which would be included in the next annual amendments to the RSIS, until the next Board meeting, when all issues will be voted on together.

D. Stormwater Management Standards Committee:

Chairman Kirkpatrick reported that the Stormwater Management Standards Committee discussed some issues with the Municipal Engineers at the Nov. 19th meeting, but will be meeting again to form recommendations for the Board's consideration.

OLD BUSINESS

A. Status of the Special Area Standards Application for the Township of Harding, Morris County:

Mr. Baier stated that a draft report from the consultant was received and distributed to the members of the Stormwater Management Standards Committee today. The work done by the consultant answers questions of what is being proposed about infiltration and water quality. The draft report still needs to be combined with the rest of the special area standards submitted by Harding Township.

Chairman Kirkpatrick explained that the Township of Harding in Morris County has taken the lead for the ten towns in the Great Swamp Watershed area. Harding Township has proposed a stormwater management system as a special area standard to address development concerns peculiar to the Great Swamp. It was the feeling of the Stormwater Management Standards Committee that Harding's proposed system would not work with the science that is available now. The Committee has asked the Township to establish how it will work and what the requirements for

the applicant would be. In the proposal, the percentage of removal of pollutants is more stringent than is required in the New Jersey Department of Environmental Protection's Stormwater and Nonpoint Source Pollution Control Best Management Practices Manual. The proposed standards are somewhat different from what the Township of Stafford in Ocean County has implemented with its special area standards for stormwater management. The Committee is waiting for information from the consultant before it finalizes a recommendation.

B. Maintenance Responsibility of Stormwater Management Facilities:

Chairman Kirkpatrick explained the issue of stormwater management facility maintenance responsibility. Dr. Moskowitz reviewed with the Board members his memorandum of December 9th in the meeting packet, noting that this memo is different from the July 6th memo on this subject. He spoke of the opposing views of Ms. Leslie McGowan, who feels that basins should be largely privately maintained, and Mr. Reinhart, who feels that maintenance responsibility belongs with the municipality.

Mr. Doyle felt that the original language that dealt with this issue in the RSIS is sufficient and that what Dr. Moskowitz is proposing is too wordy. Mr. Doyle asked Dr. Moskowitz how this language would read in the standards. Mr. Doyle pointed out that, all over the State, there are so many different types of land, soils, etc. that it would be too difficult to write standards to adequately address this. He read from the May meeting minutes the comments of Mr. Joseph Skupien of the Somerset County Public Works about letting the township and the developer work the designation of responsibility out.

Commenting on Dr. Moskowitz's memo, Ms. Valerie Hrabal thought the Board is getting closer to a better solution. She pointed out that, with dams and embankments over five feet, usually a public entity is better able to respond. She talked about a Class I dam in Mendham, Morris County where the homeowners association took over because the municipality did not want to pay for it. There may also be situations where there is rip-rap or an embankment with overwash that the municipality would be more able to handle.

Ms. McGowan asked Dr. Moskowitz for clarification as to whether routine collection of debris is included in his discussion of maintenance. She also asked what was meant by a major collector traversing private property (item #8). Dr. Moskowitz responded that a private entity would pick up grass and obvious debris. A public entity would deal with anything that affects flow and outfall structures. He went on to say that a subdivision that is downstream from other development may require large collector pipes to carry the stormwater through the subdivision for draining. Large

collector pipes that drain more than just one development should be maintained by a public entity.

Chairman Kirkpatrick said that he would like to clarify an issue that Mr. Doyle raised. When the maintenance responsibility issue first came up, the Board consulted with its attorney. Deputy Attorney General Keith Costill has advised the Board that it has the right to discuss maintenance because the Best Management Practices Manual requires stormwater facilities to be maintained. DAG Costill explained that a particular proposal is fact sensitive and it is necessary to look at specific draft language to make a determination. The question of the applicability of the State-mandate/State-pay issue also came up. Chairman Kirkpatrick asked him what his opinion is on the current language. DAG Costill replied that the language is grandfathered. Dr. Moskowitz argued that, if the Board is going to say that maintenance must be done, then the Board should say *how* it is to be done. Mr. Reinhart felt that the way the language is currently worded does not run afoul of State mandate/State pay. He felt that Dr. Moskowitz's memo is getting closer to what the Board should be able to agree upon. Mr. Reinhart added that it would be hard to write the standard for this, but it can be done.

Mr. Fehrenbach said that Dr. Moskowitz has raised some interesting questions. Any decisions made are based on the facts at the time of design and review. Mr. Fehrenbach felt that the language that was provided in the January 6th New Jersey Register is sufficient. Dr. Moskowitz added some insight on other factors that argue for and against designation of responsibility. He explained that there is a natural tendency for engineers to make sure that all the items are covered. If there is a range, they would rather err on the side of safety. Builders are more cost conscious.

Chairman Kirkpatrick suggested a meeting among a small working group of the Board, which would represent the disparate opinions expressed to date on this issue, to see if an agreement can be arrived at. If an agreement cannot be reached, Chairman Kirkpatrick said that he is ready to drop the issue. It was decided that the Maintenance of Stormwater Management Facilities Subcommittee would be comprised of Mr. Reinhart, Ms. McGowan, and Dr. Moskowitz. Mr. Doyle expressed his desire to submit comments to this discussion as well.

C. Pavement Thickness:

It was reported that a meeting took place with the Municipal Engineers on the issue of pavement thickness. Two sources on this subject are the American Association of State Highway and Transportation Officials (in the Standard Specification for a Policy on Geometric Design of Highways and Streets) and the New Jersey Society of Municipal Engineers (in the Asphalt Handbook for County and Municipal Engineers). The New Jersey Builders Association has not been able to meet since

the last comments were received from the Municipal Engineers. If the two groups can agree, then the revisions will be included for consideration by the Board in the proposal for the next annual amendments to the standards.

D. Updated DAG Analysis on the Requirement that Municipal Planning Boards and Boards of Adjustment Comply with the RSIS in Reviewing and Approving Plans for Residential Developments:

DAG Costill summarized the letter contained in the meeting packets and explained that any challenges must be brought in court. Chairman Kirkpatrick was concerned about what he heard at the New Jersey State League of Municipalities conference in November. He said that Mr. Joseph Doyle of the New Jersey Planning Officials and Mr. Stuart Koenig of the League of Municipalities sat on a panel at this conference. The advice that was being given by these two was essentially to ignore the standards. They were advising towns to use their own ordinances and to deny applications if builders complain. Chairman Kirkpatrick remarked that this kind of talk disturbs him and that the RSIS is being used inappropriately. This is no way to do business or to achieve the intent of the New Jersey Legislature.

Another issue Chairman Kirkpatrick raised was that the Board is perceived by the Planning Officials and the League as being part of the DCA and part of the “power-grab” structure, as he termed it. He pointed out that all of the Board’s correspondence is received and sent from the DCA. There is a perception that the DCA is out to usurp local authority. To remedy this perception, Chairman Kirkpatrick said that he would like the letters to continue being answered by DCA staff, but then sent to the chair of the committee for signature. He also suggested that the Board might have its own letterhead, rather than using DCA’s.

Mr. Fehrenbach suggested that, if this advice is coming from the League and the Planning Officials, perhaps a group of Board members should meet with these groups and discuss their issues. Maybe a candid talk could clear up the perceptual problems. He suggested a three-part meeting with the Board, the League, and the Planning Officials. He said that Chairman Kirkpatrick, Mr. Doyle (as the Board’s Planning Officials representative), and himself (as the League’s representative) should meet with representatives of the League and the Planning Officials to address those organizations’ objections.

Ms. Frank asked the Chair if he still wanted the letter from the DAG to go to all municipalities and what the cover letter should say. Chairman Kirkpatrick said that the Board should wait on sending the letters out until after this meeting takes place.

Dr. Moskowitz noted that the Supreme Court decision states that the RSIS is binding, but that a municipality can challenge a particular standard for a particular development. Mr. Doyle stated that he will take this up with his group. The Board is getting a lot of letters from municipalities

with questions about the RSIS, so he feels that many are following it. Chairman Kirkpatrick pointed out that municipalities treat the RSIS differently than they treated their municipal ordinances and they should not. The procedure for responding to letters can continue in the same way for now. This will be an item for action on the next meeting agenda.

NEW BUSINESS

A. Discussion of Proposed Revisions to the RSIS from the New Jersey Society of Municipal Engineers:

This item was addressed under Committee Reports.

B. Interpretation of Issues:

Chairman Kirkpatrick stated that some interpretation problems have arisen with the requirements for parking loops. Dr. Moskowitz handed out a conceptual townhouse plan as an example of a parking loop that is better defined.

Chairman Kirkpatrick stated that cul-de-sac length is another issue that needs clarification. The intent in the RSIS is that a cul-de-sac can be any length, but it is governed by average daily traffic (ADT). An interpretation is needed from the Board that municipalities cannot then establish a length. The Board cannot do this with every single item. He said that he overestimated the rationality of the land-development people in the State. Cul-de-sacs can be any length, but cannot go over 250 ADT. Ms. McGowan said that the Streets and Parking Standards Committee discussed this and decided that the ADT factor ruled. Chairman Kirkpatrick said that a letter can be written saying that the Board has met and agreed that the cul-de-sac cannot go over 250 ADT. Mr. Reinhart asked when these types of issues come to the Board for discussion. Chairman Kirkpatrick said that, when someone comes to the Board with a question, he wants them to feel like it is not the DCA that is answering it. Mr. Reinhart then recommended that the process for responding to letters stay the same, but the committee chair must see the letter after the staff drafts a response. Ms. Cynthia Wilk, Assistant Director of the Division of Codes and Standards, expressed her intention to discuss this with DAG Costill in order to come up with suggestions as to what might be an appropriate process.

Referring to correspondence in the meeting packet, Mr. Reinhart asked the representatives of Baker Residential in the audience (whose issues prompted this discussion), R. Jerry Frost, P.E. of Advanced Drainage Systems, Inc. and Ted Dudek, P.P. of Schoor-DePalma, if they were waiting for the Board to

act on their requested clarifications. The applicant's questions concerned street classification, the intersection of an access drive, parking loops, and water main loops for the proposed Lafayette Hills development in the Borough of Hawthorne, Passaic County. The applicant is at a loggerhead with the municipality. Concern was expressed over how these situations are resolved. Some discussion ensued between Mr. Dudek, Dr. Moskowitz, and Chairman Kirkpatrick on the details of the development in question.

Chairman Kirkpatrick stated that the feeling among municipalities appears to be that the planning board will take any action it feels is necessary and the applicant will have to seek any remedy he can. Dr. Moskowitz pointed out that there are legitimate questions posed by Hawthorne Borough and reminded the Board members that they are hearing only one side of the story. He was not ready to agree that this is a punishment of the developer. Mr. Dudek noted that the regulations are something that was imposed on the municipalities. There is already an adversarial position; these things cannot be resolved this way. Chairman Kirkpatrick said that these are issues that the committees need to look at at their next meetings and decide how far the Board had intended to go. Mr. Reinhart agreed that the committees may review these real-world examples, but the municipality does not have to go by the Board's interpretation because the Board has no authority to act on individual applications.

C. Discussion of "Agreements to Exceed" Log and Summary:

D. Discussion of "*De Minimis* Exceptions" Log and Summary:

It was noted that, of 79 *de minimis* exceptions granted, 48 were for sidewalks. Chairman Kirkpatrick asked whether any agreements to exceed the standards have been sent back by the DCA. Mr. Baier indicated that the DCA has asked for additional information on a number of these. (The Board receives copies of all this correspondence.) Ms. Hrabal asked if all of these agreements were signed by both parties and what form they are in. Mr. Baier replied that most were letters. Ms. Wilk read the regulations on agreements to exceed from the RSIS. She pointed out that the regulations do not stipulate that agreements must be signed by both parties, but they are to be submitted by the developer. Mr. Reinhart clarified that an agreement cannot be undone. He felt that this section is meant to give the Board an idea of what is going on in the State, for its information. Dr. Moskowitz agreed that the Board can develop some principles from this information. Chairman Kirkpatrick stated that the question the Board members have always had is whether the developer is being coerced. He was not sure that the Board has not created a situation that would allow more than negotiation. He stated that each committee chair should review the "Agreements to Exceed" log and the "*De Minimis* Exceptions" log for consistency with the intent and purpose of the RSIS and the Act, and to determine whether any changes to the rules are indicated.

E. Committee Appointments:

The following changes were made to the makeup of the committees. Chairman Kirkpatrick is being added to the Streets and Parking Standards Committee. He will also be leaving the Stormwater Management Standards Committee after he sees to the conclusion of the special area standards application for Harding Township. Mr. Amorosa will then take his place on that Committee. Mr. Amorosa is also being added to the Water Supply and Sanitary Sewers Standards Committee. Mr. Wiseman is leaving the Stormwater Management Standards Committee and Ms. Hrabal is taking his place. Mr. Reinhart asked to be added to the Legislative Committee. Finally, a Subcommittee on the Maintenance of Stormwater Management Facilities was formed to address this issue. As already noted, it will be made up of Ms. McGowan, Dr. Moskowitz, and Mr. Reinhart.

F. Meeting Schedule for 2000:

It was agreed to put aside the third Thursday of each month for Board meetings to take place when necessary.

G. Resolution for Armand A. Fiorletti:

Chairman Kirkpatrick read the resolution of appreciation for Mr. Armand A. Fiorletti, a charter Board member, upon his retirement. This will be framed and presented to Mr. Fiorletti. *A motion was made by Mr. Reinhart and seconded by Dr. Moskowitz to accept the resolution; all were in favor.*

PUBLIC COMMENTS

John Cantwell, P.E. of the New Jersey Society of Municipal Engineers stated that a lot of issues on roadways may relate to fire safety and access. He did not think there was any input from fire departments on this. The cul-de-sac length was imposed by fire departments. He advised the Board that it should keep in touch with fire departments.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick adjourned the meeting at 12:07 p.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Thursday, January 20, 2000 in Conference Room 129 of the Department of Community Affairs (William Ashby Building) at 101 South Broad Street in Trenton, New Jersey.

Respectfully submitted,

**Mary Ellen Handelman
Secretary to the Board**

Susan Uibel
Joseph Skupien
John Cantwell

New Jersey Pinelands Commission
Somerset County Public Works
New Jersey Society of Municipal Engineers

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:37 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 date, time, 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 27, 1999 meeting. There were none. A motion was made by Mr. Peter Reinhart, which was seconded by Mr. Joseph Wiseman, to approve the minutes; the vote was unanimous.

COMMITTEE REPORTS

Streets and Parking Standards Committee:

Dr. Harvey Moskowitz reported that the Streets and Parking Standards Committee met on July 14th, and discussed the street pavement thickness issue and the next annual amendments to the Residential Site Improvement Standards (RSIS).

Dr. Moskowitz said that he would be interested in seeing a summary of the kinds of *de minimis* exceptions, agreements to exceed, and waivers that have come in to the Department of Community Affairs (DCA) and which communities they are from. He was told that Mr. Michael Baier has kept logs of these and will supply the Board members with copies.

OLD BUSINESS

A. Status of the Special Area Standards Application for the Township of Harding, Morris County:

Mr. Baier reported that the consultant met with the Stormwater Management Standards Committee in July and is putting a draft of recommended stormwater standards for the Township of Harding in final form. It will be forwarded to the Board members when it is ready.

B. Maintenance Responsibility of Stormwater Management Facilities:

Dr. Moskowitz stated that he and Chairman Kirkpatrick met to discuss and to suggest a method for determining who bears responsibility for the maintenance of stormwater management facilities. In addressing this issue, they reviewed a number of plans and experimented with a variety of methods. From this review, they came up with language that they feel is fair, equitable, and reflects standard practice. Basically, where the majority of lots in a subdivision front on a public road, the responsibility would go to the municipality. Where lots front on a private road, the maintenance would be paid for privately. Dr. Moskowitz illustrated different scenarios with enlarged versions of the plans that were attached to Chairman Kirkpatrick's memorandum of July 6th.

Chairman Kirkpatrick asked if there were any comments from the Board members. Mr. Reinhart pointed to item #5 on page 2 of the memo, stating that the last sentence should read: "If the majority of the housing units are on the public road and/or are directly accessible to the public road, the municipality assumes the maintenance." He questioned whether there is a contradiction between items #4 and #5. Dr. Moskowitz stressed that, to be publicly maintained, the lot has to front on the public road *and* be accessible to and from the public road.

Chairman Kirkpatrick said that one of the concerns was to avoid the need to create homeowners associations solely for the purpose of taking care of the stormwater facility. Mr. Reinhart said it is important that there is a responsible party and noted that the cost of doing this is another concern.

He felt that basin maintenance should be a public responsibility, just as is the maintenance of other infrastructure components. Mr. Gregory Fehrenbach agreed with the points he raised, but came to a different conclusion. He pointed to a recent case in the courts, *Society Hill of Piscataway vs. the Township of Piscataway*, in Middlesex County. Even under the Municipal Services Agreement, a number of municipalities in the State have made a decision and have written into their ordinances that they will maintain the stormwater basins. Dr. Moskowitz noted Ms. McGowan has argued in the past that many municipalities do not have the manpower to handle basin maintenance. Ms. McGowan still felt that some municipalities may not. Chairman Kirkpatrick was against putting all the responsibility on one homeowner whose property includes the neighborhood's stormwater basin.

Mr. Charles Richman, DCA Assistant Commissioner, asked whether planning board decisions will be greatly affected by this rule.

Mr. Wiseman pointed out that it is not easy to separate drainage, as can be done for streets and lighting.

Mr. Reinhart said that, going by a 50-percent rule, an applicant should have the right to build roads that conform with the RSIS and have them dedicated to the municipality; the municipality should then bear the maintenance responsibility. Mr. Fehrenbach said that he was unsure whether the Board has jurisdiction over the question Mr. Reinhart raised. Mr. Fehrenbach felt the real problem may be the Board is treading on an area that was not envisioned as part of this process. Chairman Kirkpatrick reminded the Board members that they have agreed the New Jersey Department of Environmental Protection's Best Management Practices Manual will be followed. Stormwater management structures are useless without maintenance. Mr. Fehrenbach quoted from the January 6, 1997 New Jersey Register, and concluded what matters is that some entity be responsible, whether that entity be public or private.

Ms. McGowan also did not think that the Board is enabled to name who should do the maintenance. Assuming that the Board is enabled, she further argued that the development of every other standard in the RSIS was based on methods that were already accepted and approved by an authoritative source, as dictated by the Site Improvement Act; the Board is not following this mandate with stormwater facility maintenance. Throughout the five years that the Board has been developing the standards, it has maintained a policy that it will not use a standard that does not come from an accepted authority. She also pointed out that housing generates more runoff

than roads. It should be sufficient for the regulations to state that a responsible party must be named. Dr. Moskowitz commented that there is always this kind of a conflict of shifting costs in the development of building projects.

Chairman Kirkpatrick opened up the discussion to public comment on this issue. Ms. Joanne Harkins, Director of Land Use and Planning at the New Jersey Builders Association, stated that her organization has two concerns. 1) Municipalities may want the developer to place a basin on a residential lot and require the homeowner to take care of it. This is not an acceptable practice and the municipality should not require that. 2) There could be a push to create more private streets, particularly for single-family houses, so the municipality does not have to take care of the facilities. She alluded to the draft language that would require the owner of the property that the basin is located on to mow the grass around the basin or pull weeds. Chairman Kirkpatrick felt that it would be easier for a homeowner to do this than to get public works mowers on the lot. Dr. Moskowitz asked, if the road is built to RSIS specifications, whether the township has the right to refuse dedication of it.

Mr. John Cantwell of the New Jersey Society of Municipal Engineers stated that his organization sides with Ms. McGowan and Mr. Fehrenbach. The Society believes that the Board does not have the authority to make the determination of responsibility. Also, developers should not have the right to decide whether a road is public or private. This entire issue should not be discussed by the Board. Mr. Cantwell did not want to see the Board determining who decides which roads are public and which are private.

Mr. Keith Costill, Deputy Attorney General to the Board, addressed the jurisdiction issue. He said that, if maintenance is part of the standards, then the Board would have implied incidental power to designate responsibility. As far as not having an authoritative standard, he stated that other requirements that are administrative in nature, such as the special area standards, did not follow an authoritative model, either.

Dr. Moskowitz summarized the Board's opposing approaches to this issue. Ms. McGowan's view is that the responsibility for maintenance should be determined at the time of application between the municipality and the developer. The only caveat to this is that the township has to be assured the designated responsible party is able to perform the maintenance. On the other hand, Dr. Moskowitz said Mr. Reinhart's view is that all maintenance is public because it is part of the infrastructure, unless the developer decides to accept the responsibility. Mr. Reinhart defended his position by adding that, otherwise, all higher-density developments (particularly affordable

housing projects) would end up being privately maintained.

Mr. Joseph Skupien stated that he can see how the proposed stormwater maintenance requirement could drive design decisions in future development. He also pointed out that there are no maintenance responsibility standards; there are a number of policies and practices used around the State. He said that there are a number of ways that maintenance can be addressed and named some of them. If the Board's main concern is that maintenance is done, then a simple statement of this in the RSIS is sufficient. Anything else would be confusing. Mr. Richman remarked that leaving the planning boards with a scheme does not mean it will happen. Mr. Skupien asked whether anyone knew of any damage from flooding. Dr. Moskowitz told him that this information is not reported. There being no further members of the public coming forward, Chairman Kirkpatrick closed the public comment session.

Chairman Kirkpatrick asked DAG Costill about the State-mandate/State-pay issue. DAG Costill said whether it is an issue depends upon the specific proposal.

Chairman Kirkpatrick asked Dr. Moskowitz to put together clear language that deals with stormwater maintenance responsibility and have it distributed to the Board members. Chairman Kirkpatrick said that he would like to vote on this issue at the next Board meeting. Dr. Moskowitz agreed to put a complete memorandum together outlining all of the different approaches, along with the current language in the RSIS, so that the members will have all of the information before them for the vote.

C. Pavement Thickness:

Referring to page 3 of the July 29th meeting minutes of the Subcommittee on Pavement Thickness, Chairman Kirkpatrick asked if the information has come in on the use of the reliability factor advocated by the American Association of State Highway and Transportation Officials from the consultant, Mr. Kaz Tabrizi of SWK Pavement Engineering. Mr. Baier replied that this has not been received yet. Chairman Kirkpatrick asked Mr. Cantwell about the comments from the Society of Municipal Engineers. Mr. Cantwell responded that his organization is meeting on September 15th and will have comments after that. He said one issue is whether the base course should be designed to handle the life of the project. Chairman Kirkpatrick stated that pavement thickness will be addressed in the next annual review and amendments.

D. Updated DAG Analysis on the Requirement that Municipal Planning

Boards and Boards of Adjustment Comply with the RSIS in Reviewing
for Residential Developments:

and Approving Plans

DAG Costill stated that he has a draft on this subject that is awaiting approval by the Attorney General's office.

E. Status of Adoption of RSIS Amendments:

Chairman Kirkpatrick said that there are applicants who are waiting or postponing their development applications because of confusion over when the new amendments take effect. Ms. Amy Fenwick Frank explained that DCA Commissioner Jane Kenny signed the proposal last week. The decision was made that the Notice of Adoption will appear in the November 1st New Jersey Register. Staff will be doing a mailing to notify officials of this one month before. November 1st will be the effective date and May 1, 2000 will be the operative date (the date on which plans must begin to comply with the new version). Chairman Kirkpatrick commented that many clarifications are needed now by builders who are waiting for the new version. He added that the Board did not radically change any standards; the changes are mostly clarifications. Mr. Fehrenbach asked for clarification on the timeline and when planning boards would be able to approve plans by the new amendments. Ms. Frank told him that the amendments could be put in the New Jersey Register quicker, but the new books could not be printed and distributed to the towns as quickly. Mr. Fehrenbach asked if it is true that planning boards may go by the new amendments after November 1, 1999 or choose to go by the old version until May 1, 2000. He wondered whether the notice from the DCA is that the applicant can decide to choose between the two versions during this period. He asked that this be explained in a cover letter. Ms. Frank reported that the DCA now knows all of the changes the Board wanted to make upon adoption are acceptable to the Office of Administrative Law. She explained that the only problem with allowing the use of the new version as of November 1, 1999 is that the DCA may get criticized by towns that it has not told them what the new law is until after it is being followed. Mr. Fehrenbach noted that this concern is probably inconsequential because there is a lag period between the notice and the publication, as well as a lag time with an applicant's submission of an application and its approval. Chairman Kirkpatrick stated that he would like to expedite this process. He asked Ms. Frank to find out if this can be done.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick adjourned the meeting at 11:03 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Thursday, September 30, 1999 in Conference Room 134 of the Department of Community Affairs (William Ashby Building) at 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 May 27, 1999

LOCATION

Conference Room 129
Department of Community Affairs (William Ashby Building)
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Gregory Fehrenbach
Armand Fiorletti
Leslie McGowan
Harvey Moskowitz
Thomas Olenik
Peter Reinhart
Joseph Wiseman

DCA Staff:

Keith Costill, Deputy Attorney General
Cynthia Wilk, Assistant Director, Division of Codes and Standards
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
Andrew Jaskolka
John Lago
Mitchell Malec

Guests:

Susan Uibel	New Jersey Pinelands Commission
Richard L. Palatine	State Soil Conservation Committee, New Jersey Department of Agriculture
Joanne Harkins	New Jersey Builders Association
Joseph Skupien	Somerset County Public Works
Susan Weber	Bureau of Statewide Planning, New Jersey Department of Transportation
John Cantwell	New Jersey Society of Municipal Engineers
Jessica Sanchez	Office of State Planning, New Jersey Department of Community Affairs

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:41 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 date, time, 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 30, 1999 meeting. There were none. A motion was made by Mr. Joseph Wiseman, which was seconded by Mr. Armand Fiorletti, to approve the minutes; the vote was unanimous.

COMMITTEE REPORTS

A. Streets and Parking Standards Committee:

Mr. Fiorletti reported that the Streets and Parking Standards Committee met on May 14th to discuss the comments received on the proposed changes to the Residential Site Improvement Standards (RSIS). Mr. William Connolly, Vice-Chair of the Board, said that the Committee's recommendations, as well as those of the other committees, are contained in the memorandum from Mr. Michael Baier in the meeting packet, along with the proposal. The proposal includes the comment and response document. Mr. Connolly explained that the changes outlined in the memo were made because the arguments were persuasive. For the benefit of the members of the Board who are not on the Streets and Parking Standards Committee, Mr. Connolly went over each comment and response for the Streets and Parking Standards subchapter.

Referring to Comment #4 on the amendment to N.J.A.C. 5:21-4.1(c) (Street Hierarchy) and its response on page 4 of the proposal, Dr. Harvey Moskowitz noted the concern over assuring sufficient right-of-way in case street widths have to be increased to accommodate future development. He felt that, if the development will not be taking place in the near future, the street would not need to be built to the higher standard, but there should be sufficient space so that the higher-order street can be built in the future. Mr. Peter Reinhart thought that the concern is not so much the right-of-way as the setback. Dr. Moskowitz stressed that the right-of-way requirements should reflect future development to ensure there is room for sidewalks, utilities, and other infrastructure. He suggested that no additional requirements be imposed if development will not take place within five to ten years. Mr. Reinhart referred to Table 4.3, Cartway and Right-of-Way Widths on page 26 of the proposal, saying that in most cases the right-of-way is 50 feet. Mr. Baier pointed out that the rules are specific [5:21-4.1(d)] on what kinds of future development must be considered. This addressed Dr. Moskowitz's concern.

Regarding Comment #6 on the amendment to Table 4.2 (Residential Street Hierarchy Definitions) and its response on page 5 of the proposal, Dr. Moskowitz said he has been asked why the RSIS does not specify a maximum length for cul-de-sacs, which he said most towns would prefer. Chairman Kirkpatrick agreed that private, multifamily developments are typically concerned about this. Mr. Gregory Fehrenbach asked if it was necessary to go over each comment and response, saying that he is assuming all of the reasonable comments were discussed in Committee. Chairman Kirkpatrick replied that he wants to make sure that all Board members understand the issues, since they are voting on these today. Mr. Fehrenbach withdrew his comment.

Regarding Comment #7 on the amendment to Table 4.3 (Cartway and Right-of-Way Widths) and its response on page 5 of the proposal, Dr. Moskowitz requested that the word "nonparallel" be used instead of "perpendicular" to describe this type of parking. The Board agreed to this change.

Regarding Comment #11 on the amendment to 5:21-4.7 (Utility Areas) and its response on pages 6-7 of the proposal, Mr. Fehrenbach asked if specifying a minimum garage size impacts on Building Officials and Code Administrators' standards. Mr. Connolly told him "no."

Comment #15 on the amendment to Table 4.6 (Street Grade and Intersection Design Criteria) and its response on page 8 of the proposal created a lengthy discussion. Chairman Kirkpatrick believed that through streets should not be limited to changes in grade of five percent. He said that, otherwise, this will create an unsafe condition for vehicles entering the main roadway. For example, the primary road has a throughway and the secondary has a stop sign. If the road is flattened out at every intersection, situations will be created that are dangerous. The street cannot be flattened out going uphill at every intersection. Mr. Fiorletti suggested that the Board needs to give the designer a little flexibility. Mr. Connolly noted that this requirement has been in the standards from the beginning. This issue is incidental to the proposed minor wording change. Chairman Kirkpatrick expressed concern over making any changes to the through street that would require what amounts to a speed bump in the middle of the road. As this issue was not part of the proposal, Mr. Baier suggested that the Committee review it for the next annual amendments. Chairman Kirkpatrick asked if this is consistent with the Committee's recommendations and he was told "yes." Mr. Connolly said that the Board could try to make this change on adoption. He did not think that there would be any parties opposed to it. This comment was received during the public comment period. He said that the Department of Community Affairs (DCA) will try to make this change on adoption.

Mr. Fehrenbach clarified that the Board is voting for the streets and parking standards responses and changes only on the memo at this time. *A motion was made by Mr. Fiorletti, which was seconded by Ms. Leslie McGowan, to approve the comment and response document, and the recommendations made by the Streets and Parking Standards Committee as modified by the Board during today's discussion; the vote was unanimous.*

B. Water Supply and Sanitary Sewers Standards Committee:

Mr. Wiseman went over the comments and responses the Water Supply and Sanitary Sewers

Standards Committee addressed at its last meeting, noting which comments were found to be acceptable or unacceptable and why.

Regarding Comment #24 on the amendment to 5:21-6.2(c)11.iv (System Planning, Design, and Placement) and its response on page 10 of the proposal, Chairman Kirkpatrick said that he preferred the wording to state "subgrade" or the "bottom of the casting" instead of "finished grade." Mr. Wiseman suggested that that the language be changed to "18 inches below finished grade" instead of one foot. Ms. Amy Fenwick Frank pointed out that these requested changes on precast manhole barrels were not part of the proposal. The DCA will try to put these changes through on adoption. Chairman Kirkpatrick said that if they cannot be put in the standards for this year, he would like them to be put in at the next annual review.

A motion was made by Dr. Thomas Olenik, which was seconded by Mr. Wiseman, to approve the comment and response document as modified by Board discussion, and the recommendations made by the Water Supply and Sanitary Sewers Standards Committee; the vote was unanimous.

C. Storm Water Management Standards Committee:

Chairman Kirkpatrick and Mr. Connolly reported that some of the comments received by the Storm Water Management Standards Committee were still under consideration and would not be included in this year's annual amendments. They reviewed with the Board members the comments received and the responses that the Committee has made to them thus far.

Regarding Comment #33 on the amendment to 5:21-7.5(d) (Stormwater Management: System Design -- Detention Facilities) and its response on page 12 of the proposal, Dr. Moskowitz asked whether the designer must accommodate situations where, in designing a detention facility on a property, there is further flow from an adjacent property. Chairman Kirkpatrick replied that the runoff from the adjacent property need not be reduced, but must be accommodated.

Comments #36 through #51 dealt with the issue of stormwater facility maintenance responsibility, which generated a lengthy discussion. Mr. Connolly explained that the public comments reflect confusion about what the proposed new language would require. For the benefit of the public in attendance, Chairman Kirkpatrick read aloud the proposed new language in the Stormwater Facility Maintenance subsection [5:21-7.7(b)] on pages 55 through 56 of the rule proposal. Mr. Connolly said that most Committee members agree that a municipality should assume maintenance responsibility if the roadway and other pavement in the residential development is publicly owned.

If 50 percent or more of the impervious surface in a development is privately owned, a private entity (such as a homeowners association) should be responsible for maintaining drainage basins.

Discussion focused on what should be included when considering impervious surfaces (e.g., roofs, sidewalks, private driveways).

Mr. Fehrenbach questioned why the issue of maintenance was being discussed at all. The Board is not requiring maintenance in any other part of the RSIS. He stated that there are existing conditions where homeowners have to maintain their detention basins and have been doing so for years. He asked why this arrangement cannot continue. Mr. Fehrenbach remarked that it is just a fact of life there are places in this State where facilities are not maintained. He stated that stormwater facilities in residential subdivisions provide an individual service. This service is paid for through the fees collected by homeowners associations. In some municipalities, the assessed value of a property is offset by the burden of the homeowners association fees. If the proposed language were to be put into effect, the part of the homeowners association fees that cover basin maintenance would no longer be included and affected properties would need to be reassessed.

Mr. Connolly explained that storm basin maintenance is not usually a crisis situation, like a water main breaking. Unless a responsible party is appointed, the maintenance may not get done. He said that homeowners are routinely made to organize and pay for these facilities. Chairman Kirkpatrick noted that the New Jersey Department of Environmental Protection (DEP) will not issue permits unless it is shown that someone will maintain the stormwater management facilities.

Ms. McGowan asked, if drainage from a particular development goes into a basin, why someone in another part of the town should have to pay to maintain that basin. She added that, if the standards will require municipal maintenance of basins, they also should specify requirements for easements to allow municipal workers access to the basins. She raised the point that most homeowners do not trust a public worker to properly maintain the facility. Ms. McGowan pointed out that the RSIS does not contain a definition for "stormwater management facility" and suggested that one be added. Chairman Kirkpatrick agreed that this should be defined. He asked whether the definition for "stormwater management measures" should be changed to "stormwater management facilities."

Mr. Reinhart argued that the taxpayer is unrepresented in the decision to include the proposed language. He felt that, even though basins have been privately maintained for years, this does not mean that it has been a good or fair practice.

Mr. Connolly clarified the definition of a private drive. Chairman Kirkpatrick asked why a private driveway is not considered an impervious surface if it is counted as a parking space. He felt that the driveway should be counted toward the private impervious surface area. Mr. Reinhart took issue with counting the area of parking lots for multifamily affordable housing projects. He felt that if driveways for private, single-family houses are not counted as impervious surface area, then *no* one's home driveway/off-street parking should be counted. He added that not all affordable housing projects are public.

Mr. Connolly asked the engineers on the Board, when they are designing the detention facilities for a development of fee-simple, single-family homes, whether they count the roofs and driveways as impervious surfaces that generate runoff. Both Chairman Kirkpatrick and Mr. Fiorletti answered "yes;" it is part of the calculations. Mr. Connolly extrapolated from this that stormwater facilities should all be privately maintained, since the area of the roofs and drives of the homes in a development is always bigger than the street. Dr. Olenik stated that the definition of "impervious surface" will cause problems in the maintenance standard if roofs and driveways are included. It was his feeling that stormwater management facilities should always be publicly maintained. Mr. Reinhart agreed. Chairman Kirkpatrick stated that the 50-percent-cutoff idea was his, but he is uncomfortable about which impervious surfaces should be considered in the maintenance standards.

Mr. Connolly remarked that the Board members are getting tangled up in the language. He stated that it should be a public responsibility when basins mainly serve public streets. On the other hand, when the basins are filled by runoff from mainly private streets, they should be privately maintained. This is the Board's basic policy. Chairman Kirkpatrick felt that the proposed language is confusing. He asked, if a parking space in front of a house is not counted as impervious surface, then what about a parking lot for an apartment complex? Dr. Moskowitz said that this is a good point. Regarding parking loops, Mr. Reinhart said that the 9-foot by 18-foot parking space or storage area should then be excluded from that calculation as well.

Mr. Fiorletti made a motion to table this issue until the next meeting. Mr. Connolly noted that, according to Administrative Law, the proposal must be acted upon within one year. As the Board has seven or eight months, he suggested that it go forward on everything that has been agreed upon. *Mr. Fiorletti changed his motion to agree with Mr. Connolly's suggestion.*

Dr. Moskowitz said he would like to look at some typical developments and how to handle drainage from a large lot as opposed to a small lot. He would like to address what the tipping point is and how to handle complex developments. Chairman Kirkpatrick agreed and said he would like to test this on some plans. He and Dr. Moskowitz agreed to review the proposed language and its effect on specific projects. *Dr. Moskowitz iterated the motion to table the stormwater facility maintenance responsibility issue and to move forward with the rest of the adoption; it was seconded by Mr. Fehrenbach.* Mr. Reinhart clarified that 5:21-7.7 remains unamended for now, which he agrees with. Chairman Kirkpatrick said that he would like this issue resolved by the next meeting. *The vote was called for and all were in favor.* Mr. Fehrenbach said that this vote was a vote to table the maintenance responsibility item. He asked if a move to table and to approve could be in the same motion. *Mr. Fiorletti made a motion to adopt all of the comments, responses, and changes outside of the maintenance issue as recommended by the Storm Water Management Standards Committee, which was seconded by Dr. Olenik; the vote was unanimous.*

OLD BUSINESS

A. Model Application Form:

Deputy Attorney General Keith Costill stated that, according to the Site Improvement Act, the Board does have to adopt a model application form. It is strictly within the Board's discretion whether the checklist is included and whether it is mandatory. The statute refers to a model, which does not have to be mandatory. Mr. Connolly asked whether, under the Administrative Procedures Act, it is necessary to adopt the application by rule if it does not bind anyone. DAG Costill read the key language from the statute. Mr. Connolly noted that the statute does not specify a timeframe. Chairman Kirkpatrick asked what determination DCA Commissioner Jane Kenny has made with the application form. Mr. Connolly told him that the Commissioner has said it is not in the public interest to go forward with the application form at this time.

B. Report on the Supreme Court Decision in the Case of the New Jersey State League of Municipalities et al. versus the New Jersey Department of Community Affairs:

It was noted that the Supreme Court found the rules to be facially valid. Concern was expressed as to what advice the New Jersey State League of Municipalities is giving its members.

C. Stormwater Management Special Area Standards for the Township of Harding, Morris County:

Mr. Connolly reported that the purchase request was sent to the New Jersey Department of the

Treasury three or four weeks ago for approval to hire a consultant to help with special area standards.

D. Pavement Thickness:

Chairman Kirkpatrick stated that the Board needs some time to decide on the pavement thickness issue. Mr. Fiorletti said that he has submitted it to the New Jersey Society of Municipal Engineers. Mr. Connolly admitted that it is a very technical subject. He added that the consultant recommended that the American Association of State Highway and Transportation Officials' standards be followed because they are more scientific. He pointed out that Mr. Fiorletti is the only engineer on the Streets and Parking Standards Committee, and suggested that the other engineers on the Board review this issue as well.

NEW BUSINESS

Appointment of Chairs for the Streets and Parking Standards Committee and the Water Supply and Sanitary Sewers Standards Committee:

Chairman Kirkpatrick announced that Mr. Fiorletti has retired from his full-time position as County Engineer for Union County. Mr. Connolly added that his membership on the Board continues until his successor is appointed. *Mr. Fehrenbach nominated Dr. Moskowitz to replace Mr. Fiorletti as the Chair of the Streets and Parking Standards Committee; Ms. McGowan seconded the nomination. All were in favor and Dr. Moskowitz accepted the nomination.*

Dr. Olenik was nominated to replace Mr. Wiseman as the Chair of the Water Supply and Sanitary Sewers Standards Committee; all were in favor and Dr. Olenik accepted his nomination.

Mr. Connolly requested that he be taken off of the Water Supply and Sanitary Sewers Standards Committee and be added to the Streets and Parking Standards Committee; all were in favor.

PUBLIC COMMENTS

Mr. Joseph Skupien of the Somerset County Public Works stated that he understands what the Board is going through with the maintenance of stormwater management facilities issue. The methodology was recently drafted by the Storm Water Standards Committee and still needs further work. He said that he sees a problem with only

counting roads and parking areas as impervious surfaces. Roofs, garages, patios, and driveways account for 90 percent of runoff. The RSIS rules currently do what the DEP requires. The rules do not need to go beyond saying that facilities must be maintained; they do not need to impose responsibility on a particular party. The basin is there to benefit the development without adversely affecting the downstream homeowners. To make people downstream pay for the basin is unfair. There are many basins in the State that are privately maintained. He added he would not want to be a mayor of a municipality when the existing homeowners who maintain basins learn that new homeowners do not have to.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick adjourned the meeting at 11:48 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Wednesday, June 30, 1999 in Conference Room 129 of the Department of Community Affairs (William Ashby Building) at 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 March 30, 1999

LOCATION

Conference Room 134
Department of Community Affairs (William Ashby Building)
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Gregory Fehrenbach
Armand Fiorletti
Leslie McGowan
Harvey Moskowitz
Peter Reinhart
Winfield Ziegenfuss

DCA Staff:

Keith Costill, Deputy Attorney General
Cynthia Wilk, Assistant Director, Division of Codes and Standards
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
Andrew Jaskolka
John Lago
Mitchell Malec

Guests:

Phyllis Matthey	Coalition of Associations for Political Action
C. Kenneth Anderson	
Richard Palatine	State Soil Conservation Committee, New Jersey Department of Agriculture
Robert Schreiber	New Jersey Society of Municipal Engineers
Joseph DeSanctis	New Jersey Society of Municipal Engineers
Joseph Skupien	Somerset County Public Works
Susan Weber	Bureau of Statewide Planning, New Jersey Department of Transportation
Jessica Sanchez	Office of State Planning, New Jersey Department of Community Affairs
William Dressel	New Jersey State League of Municipalities
David Fisher	New Jersey Builders Association
Joanne Harkins	New Jersey Builders Association

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 11:44 a.m. following the public hearing on the amendments to the Residential Site Improvement Standards (RSIS).

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 date, time, 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 15, 1998 meeting. There were none. *A motion was made by Mr. Gregory Fehrenbach, which was seconded by Mr. Armand Fiorletti, to approve the minutes; the vote was unanimous.*

OLD BUSINESS

A. Pavement Thickness:

Chairman Kirkpatrick noted that a Request for Proposal (RFP) had been sent out for an analysis of the methodologies for calculating pavement thickness as compared to the standards contained in the recently revised Asphalt Handbook for County and Municipal Engineers. Mr. William Connolly, Vice-Chair of the Board, added that the RFP was sent to three firms. One firm was selected and its final report is expected sometime late next week. Mr. Fiorletti asked if the State absorbs the cost of the experts and he was told "yes." Chairman Kirkpatrick said that he appreciates that the DCA is willing to pay for the consultant.

B. Stormwater Management Special Area Standards for the Township of Harding, Morris County:

Chairman Kirkpatrick stated that the Township of Harding and the Storm Water Management Standards Committee are working on the technical difficulties of the special area standards application. Mr. Connolly said that the technical difficulties include: 1) the infiltration formula and 2) the development of workable water-quality methods that ensure the goals of the RSIS will be met in the special area standards. An RFP was sent out, primarily to address the infiltration formula.

BOARD MEMBER COMMENTS

Chairman Kirkpatrick raised the issue of the Board's action on the model application form at the last meeting. The Board had voted to adopt the application form and to make it mandatory. Mr. Connolly felt that mandating the form alone is pointless. Chairman Kirkpatrick replied that the application form was part of the requirement of the law. The Board should deal with it in some way. Mr. Connolly pointed out that, with the last meeting's vote on this issue, the Board is now in the position of going through the adoption process and making the towns use the application form. Referring to page 4 of the December 15, 1998 meeting minutes, Mr. Fehrenbach noted that the

Board voted down (7-3) the motion to make the application form a model for the municipalities to use. Chairman Kirkpatrick asked for Deputy Attorney General Keith Costill's advice on whether generating a model application satisfies the legislative mandate so that the Board may discuss this issue at its next meeting.

A Board member asked whether the committees should discuss the comments received thus far on the amendments to the RSIS. Mr. Connolly told him that the committees can meet after the close of the public comment period (which ends on April 19th) and after DCA staff has completed a summary of comments received for the committee members to use in their discussions.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business to discuss, Chairman Kirkpatrick adjourned the meeting at 11:57 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Tuesday, April 27, 1999 in Conference Room 129 of the Department of Community Affairs (William Ashby Building) at 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 December 15, 1998

LOCATION

Conference Room 129
Department of Community Affairs (William Ashby Building)
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Frank Doyle
Gregory Fehrenbach
Armand Fiorletti
Leslie McGowan
Harvey Moskowitz
Thomas Olenik
Peter Reinhart
Joseph Wiseman

DCA Staff:

Keith Costill, Deputy Attorney General
Cynthia Wilk, Assistant Director, Division of Codes and Standards
Amy Fenwick Frank
Mary Ellen Handelman
Andrew Jaskolka
John Lago
Mitchell Malec

Guests:

Susan Uibel	New Jersey Pinelands Commission
Richard L. Palatine	State Soil Conservation Committee, New Jersey Department of Agriculture
Hunter Birckhead	State Soil Conservation Committee, New Jersey Department of Agriculture
Joanne Harkins	New Jersey Builders Association
Susan Weber	Bureau of Statewide Planning, New Jersey Department of Transportation

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:40 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 date, time, and place of this meeting was given to the Secretary of State of New Jersey, The Star-Ledger of Newark, and The Times of Trenton.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the October 28, 1998 meeting. There were none. *A motion was made by Mr. Armand Fiorletti, which was seconded by Mr. Frank Doyle, to approve the minutes. All were in favor except Dr. Harvey Moskowitz, who abstained due to his absence from that meeting.*

At the last Board meeting, Chairman Kirkpatrick had directed Department of Community Affairs (DCA) staff to write a letter that will accompany the revised version of the Residential Site Improvement Standards (RSIS) when it is mailed out. The letter was to remind municipalities of the law that is in effect and will include a request for suggestions on changes that can be considered by the committees when the next annual review of the standards is done. He inquired about the status of this letter. Ms. Amy Fenwick Frank told him that the rules are not published in the New Jersey Register yet and they are awaiting DCA Commissioner Jane Kenny's approval. Ms. Frank assured the Chairman that he will be advised when the publication date is known; the letter will be drafted and approved by him prior to adoption and mailing of the revised rules.

COMMITTEE REPORTS

Storm Water Management Standards Committee:

Chairman Kirkpatrick reported that the Storm Water Management Standards Committee is waiting for a response from the Township of Harding in Morris County regarding its special

area standards application. Mr. William Connolly, Vice-Chair of the Board, reminded the Board members about Senate Bill 1278, sponsored by Senator Robert J. Martin. The bill would exempt the Great Swamp (which includes Harding Township) from the RSIS. The Senator has agreed to hold this legislation to see if the Board can approve special standards for the region. Mr. Connolly said that he will work with Harding to adopt special standards. He pointed out two problems. The special area standards must address: (1) design and construction requirements for infiltration systems, and (2) water-quality standards. He said that Senator Martin's bill appears to be motivated by a concern to protect the Great Swamp rather than a general objection to the RSIS. Mr. Connolly stated that the Committee will continue to work with the Township to adopt special area standards. He also said that he believes the municipality's Engineer, Mr. Robert Fox, is working on these standards conscientiously and in good faith. The issues raised by the special standards are difficult and deal with state-of-the-art stormwater management techniques. Writing these standards will take time. Chairman Kirkpatrick noted that the standards apply only to ten percent of the entire Great Swamp Watershed.

OLD BUSINESS

A. Memorialization of Resolution #98-4, "Special Area Standards for Stormwater Management in Egg Harbor Township, Atlantic County:"

A vote was called for to formally approve the special area standards for the Township of Egg Harbor, Atlantic County, Resolution #98-4. Mr. Joseph Wiseman made the motion, which was seconded by Mr. Doyle; the vote was unanimous.

B. Discussion on Whether the Local Residential Land Development Application Should Be Mandatory or Advisory:

Chairman Kirkpatrick opened discussion on whether the Local Residential Land Development Application should be mandatory or advisory. Mr. Doyle felt that the application form and checklist should be advisory only. He suggested that it be sent to all municipalities with a request for information on what should be added. Chairman Kirkpatrick asked Mr. Keith Costill, Deputy Attorney General, what the law says on this issue. DAG Costill responded that this decision is up to the Board. Regarding the application portion, the statute does not state whether it is to be mandatory or advisory, just that it should be developed. The checklist was done as an afterthought. Mr. Wiseman asked Mr. Doyle what specific items need to be regionalized. Mr. Doyle told him that there are differences among various locations throughout the State. This is true even among the different areas of a township, its lots, and so forth. Mr. Peter Reinhart read from the statute, ". . . the Board shall develop, and shall submit with recommendation to the commissioner, a model application form for use throughout the State." Therefore, he contended, the checklist could be discretionary, but not the application form. Mr. Fiorletti stated that he is in favor of a uniform checklist. He suggested that perhaps municipalities could submit their yearly activity to the DCA to be added to a statewide database. Ms.

Leslie McGowan commented that most towns do not spend much time reviewing application forms. She argued that the Board must allow towns to add to the checklist to address their particular concerns. Discretion should be allowed.

The Chairman asked if the Board is prepared to submit this document to the Commissioner. An informal vote was taken by a show of hands which indicated that six were in favor of a mandatory standard application, two were in favor of a model application form, and Mr. Connolly was against putting out an application form altogether. He felt that the cost of postage to mail the application to all municipalities is not necessary; the form is just not worth it. It was Chairman Kirkpatrick's opinion that it is important to have such information as dates and so forth on the form. Ms. McGowan contended that the quality of how the forms are filled out among all the municipalities will not be the same. She said that in her office everything is logged onto the computer; the forms are not used. The application form is not going to change the *process*. Mr. Wiseman suggested making the application available in digital form. Mr. Connolly asked why the Board should irritate the municipalities by telling them they have to change their forms; the application form contains the most minimal amount of information. Dr. Moskowitz felt that the form has merit in its use by planning boards and boards of adjustment. From the standpoint of a professional engineer working in more than one town, Chairman Kirkpatrick pointed out that it is much easier to know what information is required. Mr. Doyle felt that dissimilar forms will cause the developer to fill out the application more carefully.

A motion was made by Mr. Doyle, which was seconded by Ms. McGowan, that the application form should be a model for municipalities to use. Mr. Gregory Fehrenbach asked what the positions of the New Jersey Builders Association and the New Jersey State League of Municipalities are regarding the application form. Mr. Connolly replied that both organizations are against the form and the checklist. Addressing Mr. Connolly's opposition to the Board's mandating the use of these documents, Mr. Fehrenbach asked him if he is considering the DCA's expenditure in coming to this conclusion. Mr. Connolly said yes, that is true for the application form. As for the checklist, it is more than just the expense. The checklist covers a lot more than most municipalities ask for. Most towns are doing fine without all the information this checklist includes. Mr. Doyle said that, if the checklist is distributed as a model, over the years it may be found that the municipalities will use it regardless. Mr. Reinhart felt that the application should be mandatory for two reasons: 1) builders do not always follow the process through and 2) it may be educational for them to fill out the forms -- a basic first step. The vote was called for and the motion did not carry [three yeas (Doyle, Fehrenbach, McGowan) and seven nays (Kirkpatrick, Connolly, Fiorletti, Moskowitz, Olenik, Reinhart, Wiseman)].

Dr. Moskowitz made a motion, which was seconded, to make the application form mandatory. This vote passed with six yeas (Kirkpatrick, Fiorletti, Moskowitz, Olenik, Reinhart, Wiseman) and four nays (Connolly, Doyle, Fehrenbach, McGowan). Mr. Reinhart made a third motion not to distribute the checklist, which was seconded by

Mr. Wiseman. Dr. Moskowitz disagreed with this, stating that the checklist is valuable and that it provides a resource to the boards. There is no disadvantage if the boards get a checklist. Many years ago, the DCA put out the Model Subdivision and Site Plan Ordinance. He felt that this checklist should be used as a model as the municipalities see fit. Mr. Fiorletti agreed that the work of the Model Application Form Committee should be made available. Mr. Fehrenbach reminded the Board members that the DCA was created in 1967 to provide technical assistance to local government, not to be a big, regulatory agency. The term "advisory" would be consistent with the DCA's mandate. It simply can be announced that a checklist exists, so that the DCA does not have to spend any further money copying it and mailing it out to all 566 municipalities. Mr. Connolly said that his problem with distributing it is that it was drafted to be a mandatory checklist. If he wrote a model checklist, it would look a lot different and simpler. He was not comfortable in distributing it as the State's model. Mr. Fiorletti responded that this could be put forth in the cover letter for the distribution. It was Dr. Thomas Olenik's opinion that certain items will start to enter into the checklist and eventually it will start to go against the standards. The recommendation could be to take it back to Committee to rework it. *Mr. Reinhart restated and clarified the motion on the floor: to make no recommendation to the Commissioner concerning the checklist, but to make it available to municipalities upon request.* Mr. Connolly commented that he would not do much to publicize it because it is not a good model. *The vote was called for and the motion was passed, with eight yeas (Kirkpatrick, Connolly, Doyle, Fehrenbach, Fiorletti, McGowan, Reinhart, Wiseman) and two nays (Moskowitz, Olenik).*

NEW BUSINESS

A. Discussion of the New Edition of the Municipal Engineers Handbook and its Inclusion as a Referenced Standard in the Revision to the Residential Site Improvement Standards:

Chairman Kirkpatrick said that the New Jersey Society of Municipal Engineers has revised its Asphalt Handbook for County and Municipal Engineers, and he would like it incorporated into the RSIS. When the highway and streets hierarchy was classified in the RSIS, it was different from what was in the Handbook. The Handbook is now revised and agrees with what is in the RSIS. He said that it makes a lot of sense and he would like it incorporated into the revisions.

Mr. Fiorletti felt that it should be referenced in its entirety. Mr. Fehrenbach said that the procedures are that the Board makes a recommendation to the Commissioner, who then approves it. It is not as simple as changing the number of the edition. Mr. Connolly agreed and said that he is not sure that the Board is ready to move ahead with this. Mr. Fiorletti reported that the Handbook was adopted at the Society's annual meeting. Mr. Connolly felt that the Handbook needs some technical analysis. He would like to compare it with using the more scientifically based formulas. He expressed concern that too much pavement is being used; the scientific formula probably uses less pavement thickness.

Chairman Kirkpatrick explained the makeup of a street. The intermediate course cannot support construction traffic. After construction is complete and it is time to put the top layer of pavement on the street, the intermediate layer has to be repaired. He would like to see this error resolved sooner rather than later.

Mr. Fiorletti stated that the Streets and Parking Standards Committee approves this change and recommends that it move forward. Mr. Connolly said that they are disagreeing as to whether that is a good approach. The way the standards are written now, the developer has to go back and fix whatever is wrong with the pavement. He did not think that the Committee should be making a decision on inclusion of the Handbook's pavement thicknesses before they are tested scientifically. Mr. Reinhart asked how long Mr. Connolly thought it would take for this analysis. To wait a month or two would not make a big difference. Chairman Kirkpatrick told him that changes are made annually. Mr. Connolly said that the Board is obliged to make changes once a year, but nothing precludes the Board from making changes anywhere along the line. Ms. Joanne Harkins, Director of Land Use and Planning for the New Jersey Builders Association, stated that her organization agreed with the paving standards when the RSIS was published. She would like to see what is proposed before it is adopted. Chairman Kirkpatrick stated that the Committee has made its recommendation.

Mr. Reinhart made a motion, which was seconded by Dr. Olenik, to give the DCA 60 days for scientific study and that it report back at the February meeting. Mr. Fehrenbach stated that one of the Board's responsibilities is to have a suitable authoritative source for what it puts in the RSIS. It would seem that the Society would be a suitable authoritative source. Mr. Connolly replied that the RSIS specifies six or seven calculation methodologies that can be used. Maybe the analysis will confirm the Society's standard. *The vote was called for and all were in favor except Mr. Fiorletti, who voted nay.*

B. Meeting Schedule for 1999:

Dr. Moskowitz made a motion to schedule the Board meetings for the first Tuesday of every month, beginning with February 2nd as the next meeting. All were in favor.

PUBLIC COMMENTS

Regarding the application form, Ms. Harkins said that one of the Association's recommendations was that the DCA develop a software macro so that the form could be filled out on a computer and it could be standardized in that way. She felt that this would be very helpful. Chairman Kirkpatrick asked her if she would be willing to do this for the DCA.

BOARD MEMBER COMMENTS

Mr. Wiseman told the Chairman that the Federal government uses a website from which the Board could download information and use it.

Ms. Frank told the Board members that surplus copies of the original version of the RSIS are being given away before the next edition comes out.

ADJOURNMENT

A motion was made by Dr. Moskowitz, which was seconded by Ms. McGowan, to adjourn the meeting. All were in favor. Chairman Kirkpatrick adjourned the meeting at 10:48 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Tuesday, February 2, 1999 in Conference Room 129 of the Department of Community Affairs (William Ashby Building) at 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 October 20, 1998

LOCATION

Conference Room 134
Department of Community Affairs (William Ashby Building)
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Frank Doyle
Gregory Fehrenbach
Armand Fiorletti
Leslie McGowan

Division of Codes and Standards Staff:

Keith Costill, Deputy Attorney General
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
Andrew Jaskolka
John Lago
Mitchell Malec

Guests:

James A. Mott	Engineer for Egg Harbor Township
Peter J. Miller	Township of Egg Harbor, Atlantic County
Vincent J. Polistina	Assistant Engineer for Egg Harbor Township
Jessica Sanchez	Office of State Planning, New Jersey Department of Community Affairs
William Harrison	New Jersey Pinelands Commission
Joanne Harkins	New Jersey Builders Association
Susan M. Weber	Bureau of Statewide Planning, New Jersey Department of Transportation

CALL TO ORDER

Mr. Robert 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 date, time, and place of this meeting was given to the Secretary of State of New Jersey, The Star-Ledger of Newark, and The Times of Trenton.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the September 15, 1998 meeting. There were none. *A motion was made by Mr. Armand Fiorletti, which was seconded by Mr. Gregory Fehrenbach, to approve the minutes; the vote was unanimous.*

COMMITTEE REPORTS

Model Application Form Committee:

Mr. William Connolly, Vice-Chair of the Board, reported that he is trying to set up a meeting among the members of the Model Application Form Committee and representatives of the New Jersey State League of Municipalities and the New Jersey Builders Association to discuss the proposed Local Residential Land Development Application. As the latest comments from the League and the Association indicated that neither group desired a mandatory uniform application and checklist, the Board had decided at its last meeting to gather more information before making a final decision on its use. Ms. Amy Fenwick Frank stated that a tentative date had been set for October 29th, but it was not confirmed as yet.

Storm Water Management Standards Committee:

It was reported that the Storm Water Management Standards Committee is waiting for the Township of Harding to submit a final draft of the special standards for the Great Swamp Watershed. Mr. Connolly stated that Department of Community Affairs (DCA) Commissioner Jane Kenny recently spoke with Senator Robert J. Martin regarding his bill, Senate Bill 1278, which exempts the Great Swamp (which includes Harding Township)

from the Residential Site Improvement Standards (RSIS). Senator Martin agreed to put a hold on this piece of legislation for about three months to see if the Board can approve special standards for the region. DCA staff will get in touch with Harding's Engineer, Mr. Robert Fox, to see if they can assist in the development of the special standards. Mr. Connolly said he believed Mr. Fox is working in good faith.

Chairman Kirkpatrick asked about the status of the revisions to the RSIS. Ms. Frank provided him with an update, saying that staff has been waiting for the software that has been ordered to arrive, which will be used for the diagrams.

OLD BUSINESS

A. Public Hearing and Technical Discussion on the Special Area Standards Application from the Township of Egg Harbor, Atlantic County on Stormwater Management:

The three representatives of the Township of Egg Harbor were introduced: Mr. James A. Mott, Township Engineer; Mr. Peter J. Miller, Township Administrator; and Mr. Vincent J. Polistina, Consulting Municipal Engineer. Mr. Mott thanked DCA staff liaison Mr. John Lago for his help so far.

Mr. Mott described the borders of Egg Harbor Township, stating that it encompasses 70 square miles. He said that half of Egg Harbor is in the Pinelands area and the other half is under the jurisdiction of the Coastal Area Facilities Review Act. He explained that the special area standards are requested for the Pinelands area of the Township. The New Jersey Pinelands Commission has targeted the municipality as a regional-growth area. As of the 1990 Census, the population of the Township of Egg Harbor was 25,000, but it is expected to grow to 100,000. Egg Harbor Township had been a rural community; however, in recent years, there have been approximately 300 to 500 building permits issued per year. Egg Harbor is seeking relief from the requirements of N.J.A.C. 5:21-7.5(e) regarding system design of detention facilities. The special area standards would adopt a vertical separation requirement for stormwater infiltration systems. This requirement had been in effect for about eight years prior to the RSIS. The Township's method is based on the permeability of the soil and the specific yield of the soil. Mr. Mott noted that Mr. William Harrison of the Pinelands Commission is present at this meeting today and that his agency has certified the method that the municipality is using.

Mr. Miller stated that he has been with the Township of Egg Harbor for over nine years. He spoke of 330 single-family permits that Egg Harbor Township has issued. He said that using a catch basin where water has to be detained on site has not worked in this area. The water was only leaving the site through evaporation. The homeowners associations are not able to cut grass because of the wetlands on the properties. People who live in a residential subdivision that use this type of stormwater management have to deal with standing water that is a mosquito-breeding place and an annoyance to owners. The current standard of a two-foot separation is inadequate. Mr. Miller said that he and the

engineers are here today because they are seeking administrative relief, which the Board can grant on this issue.

Mr. Fiorletti and Chairman Kirkpatrick asked several questions about how the Egg Harbor standard works. They asked about the frequency of borings and how the vertical separation formula is calculated. Mr. Connolly noted that the designer picks the depth based on the specifics of the area. Chairman Kirkpatrick said that this should be made more clear in the resolution. He clarified that the Pinelands Commission has certified, but not endorsed, their methods. He requested a copy of this certification from the Pinelands Commission for the file.

Mr. Connolly spoke of the meeting of the DCA staff with representatives of the Pinelands Commission, stating that the Commission did confirm that water tends to stand on the ground in the Township more so than in adjacent areas. A clay lens exists that creates this problem. Where the clay lens is not present, the special area standards are not needed. He noted that the Township of Hamilton nearby does not have this problem. Mr. Mott agreed that, certainly, not all of the Township of Egg Harbor has this problem, but there is no easy way to delineate. He explained that, for a project not over the clay lens, the calculations will yield two feet or less. The most restrictive standard should be used for boring. Mr. Connolly said that language should be added to make this clearer, also. He said that staff will make those two clarifications.

Mr. Fiorletti made a motion to adopt Resolution #98-4 in principle with the two clarifications and Mr. Fehrenbach seconded the motion; the vote was unanimous. The representatives thanked the Board members for their time. Ms. Frank told the Chairman that the staff has followed the process the Board set forth by publishing the public hearing announcement in the New Jersey Register. Also, the municipality has provided the DCA with proof of the legal notice in its local newspaper. Therefore, all interested parties have been duly notified of this hearing.

B. DAG Analysis on the Requirement that Municipal Planning Boards and Boards of Adjustment Comply with the RSIS in Reviewing and Approving Plans for Residential Developments:

The Board members reviewed and discussed Deputy Attorney General Keith Costill's letter to the Chairman. Mr. Frank Doyle said that, although some municipalities may not be complying with the RSIS, he did not think that it could be many. Chairman Kirkpatrick has been concerned with noncompliance because he has heard people say with conviction that they would not pay any attention to these standards. He acknowledged that the issue is diminishing, but he still thinks there is need to remind some municipalities about this. Mr. Doyle felt that perhaps some things can be worked out with municipalities if they tell the Board what their problems with the standards are. He added that it is foolish of them not to communicate these to the Board. Chairman Kirkpatrick felt that many municipalities are addressing their "problems" through *de minimis* exceptions. It was Mr. Fehrenbach's opinion that the size and length of the DAG's letter was overkill.

Chairman Kirkpatrick asked DAG Costill to explain his seven-page letter. DAG Costill stated that the original request from the Board was for him to include what the consequences are if a municipality does not go by the RSIS. Misconduct in office is one charge that could be made. He said that the Board would not be involved in the consequences to the municipalities; therefore, he did not address it. Basically, the letter states that these regulations are in effect and that the municipalities must adhere to them. If there is any particular board that has a problem with them, there are ways in which this can be addressed. He mentioned that the Supreme Court has granted certification of the League's lawsuit. It was DAG Costill's feeling that the letter would be sent out as an informational item or notification. He told the Chairman that he is free to send this letter out at any point. Nothing in this letter will be affected by the certification of the Court.

It was Chairman Kirkpatrick's feeling that the entire letter should not be mailed to all municipalities, as he doubted that the whole letter would be read due to its length. He was also unsure that the letter needed to be sent out at this point in time, as it was the general feeling of the Board that most municipalities are complying with the RSIS. Further, the Board is not the one to create an action against a municipality; that is for the developers to do. Mr. Fiorletti felt that the letter should go out. Mr. Doyle said that, if the Board wants to send something out, it should be a basic restatement and reminder of what the law is. If there are problems, the Board should ask what they are so that they can be addressed. Chairman Kirkpatrick asked if it should be sent to planning board and board of adjustment attorneys. This legal opinion could be shared with those who provide legal advice to these boards. Mr. Doyle suggested that a copy of the letter go to the mayors, as well. Mr. Connolly cautioned against being heavy-handed about this. He agreed with Mr. Doyle. If most municipalities are complying, Mr. Connolly said that he would rather not confront all municipalities with a warning. He recommended taking action upon being notified of individual instances of noncompliance. Ms. Leslie McGowan agreed with this approach and suggested including a reminder the next time a mailing is done. Mr. Connolly commented that the level of acceptance is growing. *Chairman Kirkpatrick directed staff to draft a letter that the Board can send out when the changes to the RSIS are published next year and to include a request for ideas on how it can be changed in future revisions.*

C. SIAB Resolution Honoring Winfield E. Ziegenfuss, Jr.:

Chairman Kirkpatrick read the resolution acknowledging the contributions made by its resigning Board member, Mr. Winfield E. Ziegenfuss, Jr., and expressing the appreciation felt by his fellow Board members for his service. *A motion was made by Mr. Doyle, which was seconded by Mr. Fiorletti, to approve the resolution; the vote was unanimous.* The resolution will be signed by all members and framed for presentation to Mr. Ziegenfuss.

INFORMATION

A. Status of Revisions to the RSIS:

Mr. Fiorletti reported that the issue relegated to the Streets and Parking Standards Committee for review and recommendation has been addressed. Abbingtion Associates had raised concerns over an apparent conflict between the sight triangle distances per the American Association of State Highway and Transportation Officials Manual referenced in the RSIS and the minimum radii permitted by the RSIS. The Committee's recommendation is that no changes to the RSIS are necessary on this issue. It was noted that the New Jersey Society of Municipal Engineers has not completed the revised Asphalt Handbook for County and Municipal Engineers yet.

B. Status of Harding Township's Special Area Standards Application:

(See Committee Reports -- Storm Water Management Standards Committee.)

C. Status of the Proposed Local Residential Land Development Application:

It was noted that half of the comments on the proposed Local Residential Land Development Application have been distributed to the Board members today. The other half will be copied and distributed shortly. (See Committee Reports -- Model Application Form Committee.)

BOARD MEMBER COMMENTS

Chairman Kirkpatrick advised the Board members that Dr. Thomas Olenik has asked him to write a letter of recommendation for him to become a full professor at the New Jersey Institute of Technology. He asked the Board members is they had any problem with him doing this; no one disagreed that he should.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick adjourned the meeting at 10:29 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Tuesday, November 17, 1998 in Conference Room 134 of the Department of Community Affairs (William Ashby Building) at 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 September 15, 1998

LOCATION

Conference Room 134
Department of Community Affairs (William Ashby Building)
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Frank Doyle
Gregory Fehrenbach
Armand Fiorletti
Harvey Moskowitz
Thomas Olenik
Peter Reinhart

DCA Staff:

Amy Fenwick Frank
Mary Ellen Handelman
Andrew Jaskolka
John Lago
Mitchell Malec

Guests:

Susan Uibel
Hunter Birkhead
New Jersey Pinelands Commission
State Soil Conservation Committee, New Jersey
Department of Agriculture

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:41 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 date, time, and place of this meeting was given to the Secretary of State of New Jersey, The Star-Ledger of Newark, and The Times of Trenton.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the June 16, 1998 meeting. There were none. *A motion was made by Mr. Peter Reinhart, which was seconded by Mr. Armand Fiorletti, to approve the minutes; the vote was unanimous.*

OLD BUSINESS

A. Report from the Deputy Attorney General on the Superior Court Appellate Division Decision in the Case of *the New Jersey State League of Municipalities vs. the New Jersey Department of Community Affairs*:

In the absence of Mr. Keith Costill, Deputy Attorney General to the Board, Ms. Amy Fenwick Frank informed the members that the New Jersey Supreme Court has granted the New Jersey State League of Municipalities certification to appeal the decision on this case, but no date for oral argument has been set yet. Mr. William Connolly, Vice-Chair of the Board, added that this appeal came as no surprise to the Department of Community Affairs (DCA).

Chairman Kirkpatrick expressed his dissatisfaction that there are a number of municipalities that are ignoring the mandates of the Site Improvement Act. He asked about the status of a letter that was agreed to be sent to all municipalities reminding them that they must comply with this law, even if it is currently being contested in Court. Municipal officials who allow this law to be ignored are violating their oath of office. Mr. Connolly advised him that DAG Costill is working on this letter. Mr. Gregory Fehrenbach said that his general impression is that there is greater and greater compliance with the Residential Site Improvement Standards (RSIS). He was unsure that the level of noncompliance is as great as the Chairman believes it to be. Mr. Connolly felt that applicants would complain to the DCA if there was such a high lack of compliance. He said he sees gradually increasing levels of compliance. Mr. Frank Doyle pointed out that the municipalities have always had standards to go by. There have not been too many problems with using the RSIS and most problems that occur are dealt with as *de minimis* exceptions. Dr. Harvey Moskowitz was hopeful that the Court will affirm the law. Mr.

Connolly predicted that it will probably take one-half of a year to settle the case.

Referring to the letter that DAG Costill is drafting, Mr. Connolly told the Board members that it will be somewhat confrontational in nature because it will say that the penalty for not following the law will be a jail sentence. It was Mr. Reinhart's feeling that the Court case might be an opportunity for the Board to clarify in the letter that the RSIS is law and the mere fact that the Court has decided to hear the case does not mean that the law can be ignored. He suggested that the DAG's letter be written and sent as soon as possible. Mr. Connolly clarified that the issue is one of tactics and how to get people to come around. *Dr. Moskowitz made a motion to hold off on the letter until the Court makes its decision, but the motion was withdrawn due to the lack of a second.*

B. Memorialization of Resolution #98-3, "Special Area Standards for Parking in the City of Hoboken, Hudson County":

Chairman Kirkpatrick announced that the mail-in vote by the Board members on this resolution over the summer was unanimous. *He signed the resolution.*

C. Discussion of Public Comments Received on the Proposed Local Residential Land Development Application:

Mr. Connolly noted that the DCA has received many comments on the proposed Local Residential Land Development Application (LRLDA), mostly in opposition to it. He said that he did not ask DCA staff to compile the comments into a summary yet. He pointed out that two of the letters received were in the meeting packet: one from the League of Municipalities and one from the New Jersey Builders Association. The letter from the League states that the Board has gone way beyond what it should be doing; the Builders Association is also against the LRLDA. The issue now is: Should the Board continue to push something that has very little support among municipalities and developers?

Chairman Kirkpatrick stated that, originally, he thought that the checklist should be advisory to accompany the mandatory application. But, because municipalities have used application forms to place additional demands on developers merely to intentionally delay projects, he believes the application form should be mandatory and all inclusive. All the requirements should be put up front.

Mr. Fehrenbach questioned whether there is not some advantage to having a model for the municipalities to draw from. It might increase uniformity among municipal applications and checklists. Mr. Connolly responded that the uniform checklist would help to address the small amount of abuses that occur, but it would also raise the level of information requested. Mr. Doyle noted one thing Hunterdon County told him that could be included on the checklist is whether taxes have been paid on a particular lot. He added that it should be a model form that municipalities could add to.

Mr. Reinhart suggested having a meeting of the Model Application Form Committee and inviting the two protagonists (the League and the Builders Association) to see how the form might be changed if it were to be distributed to the municipalities to use as a model.

Dr. Thomas Olenik was adamant that the Board follow what had been previously decided and make the LRLDA mandatory. He contended that people are ignoring the whole process.

Chairman Kirkpatrick asked if there should be a meeting as Mr. Reinhart suggested. *Chairman Kirkpatrick directed staff to contact the League and the Builders Association, and to schedule a Committee meeting.*

D. Update on the Special Area Standards Application from the Township of Egg Harbor, Atlantic County:

Mr. Connolly briefed the Board members on the Township of Egg Harbor's application for special area standards for stormwater management. Egg Harbor Township requested a special area standard to determine the vertical distance between the bottom of infiltration basins and the seasonal high groundwater table. The Storm Water Management Standards Committee agreed to approve the proposed standard on the condition that Egg Harbor provide an adequate authoritative source for the method in the special area standard. The Township has done so and the Board will formally discuss the proposal at the October 20 meeting.

E. Update on the Special Area Standards Application from the Township of Harding, Morris County:

Mr. Connolly updated the Board on the status of the Township of Harding's special area standards request for stormwater management. When the Storm Water Management Standards Committee last met with Harding Township and staff from the New Jersey Department of Environmental Protection, representatives of the municipality said they would bring in their experts. Mr. Robert Fox, Township Engineer, had asked at that meeting to make a further refinement on his proposal. The Chairman is interested in arriving at the best possible resolution on this matter and Harding is proceeding slowly.

Mr. Reinhart said that he never envisioned the special area standards going into such technical engineering detail where the Board would be making decisions on items such as stormwater and drainage. Chairman Kirkpatrick replied that the Township chose to expand on the standards. Mr. Connolly stated that there is a very unsettled state of the art on the preservation of water quality. For instance, the Township of Hopewell, where he lives, wants a two-year storm to be infiltrated. It is being advocated for places like the Great Swamp and also for freshwater streams.

F. Revisions to the RSIS:

Chairman Kirkpatrick asked if the revisions have been made to the RSIS and whether these revisions have gone to the DCA Commissioner for approval yet. He was told no, that staff is working on it. Chairman Kirkpatrick asked that staff provide the Board members with a copy of what is given to the Commissioner.

NEW BUSINESS

Discussion Regarding Apparent Conflict Between the Sight Triangle Distances per the AASHTO Manual Referenced in the RSIS and the Minimum Radii Permitted by the RSIS:

Chairman Kirkpatrick said that this issue is not necessarily "triangles." *He stated that he would like the Streets and Parking Standards Committee to look at it and resolve it.*

BOARD MEMBER COMMENTS

Mr. Fiorletti reported that the New Jersey Society of Municipal Engineers is taking a long time in addressing the issue of pavement design.

Dr. Moskowitz announced that Board Member Winfield Ziegenfuss, Jr. has resigned from his seat on the Board, and he felt that the Commissioner should write a letter of appreciation, or the Board should do a resolution recognizing and thanking him for his service. *A motion was made, which was seconded by Mr. Reinhart, to draft a resolution to this effect; the vote was unanimous.*

Dr. Moskowitz spoke of an article Ms. Michele Donato, Assistant Counsel to the New Jersey Planning Officials, wrote for the August issue of NJ Planner where she said that *de minimis* exceptions are granted by municipalities which sacrifice truth for convenience. Dr. Moskowitz said that her article reflected the fact that she was not well informed and he offered to write a response to this article. *Chairman Kirkpatrick agreed that he should write a response, but that it should first be brought before the Board before it is published.*

Dr. Moskowitz asked about recent correspondence between Mr. Connolly and Mr. Scott G. Lynn of Van Cleef Engineering Associates regarding an agreement to exceed the standards for cartway width for the Country Classics Phase 2 subdivision in Hillsborough Township, Somerset County. Ms. Fenwick Frank explained that this subdivision was the second phase of a development project, phase 1 of which was under a consent judgment from July of 1980. The applicant had agreed to construct Amsterdam Drive to a width of 40 feet in this consent judgment, with sidewalks being installed on only one side of the internal roadways of the subdivision. Since this was dealt with in the consent judgment, the agreement was not questioned in the letter from the DCA.

Dr. Moskowitz asked if the Board can tell a municipality that what it has granted as a *de minimis* exception must be revoked. Mr. Connolly told him no, but if the Board perceives excesses, the RSIS can be revised. Dr. Moskowitz expressed concern over sidewalks being waived and asked if staff has been tracking the exceptions that are received; he was told yes. Ms. Fenwick Frank added that Mr. Michael Baier will be working with the RSIS issues full time shortly, and will analyze what types of *de minimis* exceptions are being received by the DCA and categorize them for the Board's review.

Mr. Doyle stated that the standards have really woken up some municipalities to what they have. He felt it is overall a good thing and thinks the Board is going along the right track.

PUBLIC COMMENTS

Asked about his opinion on infiltration basins for stormwater management, Mr. Hunter Birckhead of the New Jersey Department of Agriculture's State Soil Conservation Committee stated that he has seen a lot of infiltration basins that fail and a lot that work.

ADJOURNMENT

Chairman Kirkpatrick announced that the Storm Water Management Standards Committee will briefly meet after the Board meeting is adjourned.

Chairman Kirkpatrick adjourned the meeting at 10:37 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Tuesday, October 20, 1998 in Conference Room 134 of the Department of Community Affairs (William Ashby Building) at 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 June 16, 1998

LOCATION

First Floor Conference Room
Building 3B
3131 Princeton Pike
Lawrenceville, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Frank Doyle
Gregory Fehrenbach
Armand Fiorletti
Leslie McGowan
Harvey Moskowitz
Thomas Olenik
Peter Reinhart
Joseph Wiseman

DCA Staff:

Keith Costill, Deputy Attorney General
Cynthia Wilk, Assistant Director, Division of Codes and Standards
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
Andrew Jaskolka
John Lago
Mitchell Malec
Emily Templeton

Guests:

Hallie Connolly-Aubin	Connolly Environmental, Inc.
John Aubin	Connolly Environmental, Inc.
Paul J. Shives	Township of Stafford, Ocean County
John R. Spodofora	Township of Stafford, Ocean County
Stephen Schreiber	Bay Pointe Engineering Associates, Inc. (for Stafford Twp.)

John Mullen	Bay Pointe Engineering Associates, Inc. (for Stafford Twp.)
Joseph Skupien	Somerset County Engineering
Nancy Duryea	Bureau of Licensing, Division of Youth and Family Services, New Jersey Department of Human Services

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:36 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 date, time, 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 Atlantic City Press, and The Jersey Journal of Jersey City.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the April 21, 1998 meeting. There were none. A motion was made by Mr. Joseph Wiseman, which was seconded by Mr. Armand Fiorletti, to approve the minutes; the vote was unanimous.

OLD BUSINESS

A. Resolution #98-2: "Special Area Standards for Stormwater Management for the Township of Stafford, Ocean County":

Chairman Kirkpatrick asked if there were any comments from the Board members on draft Resolution #98-2. Mr. William Connolly, Vice-Chair of the Board, noted that the details of the special area standard have already been approved by the Board; this is just memorializing in a resolution what the Board has already agreed to.

Referring to the fifth paragraph on the first page of the resolution which states that the Township of Stafford will apply for a New Jersey Pollutant Discharge Elimination System

general permit (which is expected to be issued within 12 months), Mr. Wiseman asked what happens if there is a change in the interim and whether there is a change if Stafford Township does not get the general permit. Chairman Kirkpatrick told him that the Board expects that the New Jersey Department of Environmental Protection (DEP) will issue the general permit. He added that the groundwater discharge permit will apply to all residential development in Stafford. Developers will not have to apply for this type of permit for infiltration basins. Mr. Connolly clarified that this resolution expires if the general permit is not obtained at the end of the year. On page 3, in the first sentence of paragraph (c) and following the name of the publication, Mr. Wiseman wanted the following language to be added: "published by the New Jersey Department of Environmental Protection". On page 6 in the second sentence of paragraph vii, he asked whether the meaning is "two feet or more" or "more than two feet." Mr. Connolly replied that it should mean "to a depth exceeding two feet." This sentence was changed to read: "When recharge fields are built up by fill to a depth of exceeding two (2) feet ~~or more~~, the area of such fill shall extend at least twenty (20) feet beyond the limits of the recharge field and the fill shall be of earth having a percolation value approximately equal to that of the ground over which the fill is placed." Mr. Wiseman referred to the second paragraph on page 7 and asked what its meaning is. Mr. Peter Reinhart said that it seems inconsistent with (l) on page 6. Mr. Connolly believed that the meaning is that the property owner consents to the removal of other material and debris. The property owner permits that activity to take place. Mr. Reinhart suggested the following language changes to this paragraph:

- "4. Periodic removal and disposal of other material and debris by the municipality shall be permitted by the owner or owners of any private property, with permanent arrangements that shall pass to any successive owner. If portions of the land are to be sold, legally-binding arrangements shall be made to pass ~~the basic responsibility~~ this authorization to successors in title."

Mr. Wiseman made a correction to the third line of the left column of the table at the bottom of page 7: "42 to ~~68~~ 60".

Mr. Paul J. Shives, Administrator of the Township of Stafford, made the following correction to the fourth paragraph of page 1: "WHEREAS, the Department of Environmental Protection has maintained that loss of groundwater recharge and increased groundwater withdrawals, both related to new development, would eventually result in increased salinity in the groundwater and the Bay; and".

Mr. Fiorletti made a motion, which was seconded by Mr. Wiseman, to approve Resolution #98-2 with the above amendments; the vote was unanimous.

Mr. Shives stated that the Board has worked a long time with Stafford on this special area standard; he thanked the Board and Department of Community Affairs (DCA) staff for their patience and indulgence in the process.

B. Public Hearing and Technical Discussion on Special Area Standards Application from the City of Hoboken, Hudson County:

Chairman Kirkpatrick asked if there was anyone representing the City of Hoboken that would like to give testimony. No one came forward. Mr. Connolly explained that Hoboken had requested special parking standards. He referred to Mr. Mitchell Malec's memorandum of May 20th in the meeting packet. Mr. Connolly noted that the original request was only for certain areas of Hoboken. Ms. Elizabeth Vandor, the City's planning consultant, had recently contacted the office and requested that these special area standards for parking be applicable to the entire municipality. Mr. Malec explained that this change would be for the R1, R2, and R3 zones, and that would be all of the City of Hoboken. Mr. Connolly added that all residential parts are in these zones. He noted that a map should still be requested of Hoboken to attach to the resolution.

Mr. Gregory Fehrenbach stated that the designation of zones is in the hands of the governing body. He asked, if the Board takes this action to approve a resolution on parking and Hoboken makes an amendment to rezone, whether this will affect the resolution. Mr. Connolly responded that the City would have to submit a revised map to the Board to denote where the special area standard applies. There being no comments from the public, the public hearing was closed at 9:50 a.m.

Dr. Harvey Moskowitz expressed concern that the City is providing a lot of parking where mass transit should be encouraged. Mr. Connolly mentioned that Hoboken provides parking structures and noted that it is difficult to keep families from having one car. Chairman Kirkpatrick stated that a formal resolution should be prepared for the next Board meeting.

Mr. Connolly noted that the DCA has received another special area standard request from the Township of Egg Harbor in Atlantic County. The formal process for the application and review of special area standards will be followed. A notice is going into the New Jersey Register. The Storm Water Management Standards Committee will be meeting to discuss this. From now on, the special area standards applications will be handled according to this procedure.

C. First Annual Amendments to the Residential Site Improvement Standards:

Streets and Parking Standards --

Mr. Wiseman said that item #6 of the Streets and Parking Standards Committee's current summary of recommended revisions to the Residential Site Improvement Standards (RSIS), which states that utility mains ". . . shall be located within the right-of-way" is in conflict with the water supply and sanitary sewers standards. He did not see any need for the whole paragraph. Chairman Kirkpatrick noted that it appears that this is trying to organize and standardize where mains will be. Mr. Wiseman referred to the RSIS at 5:21-6.2(c)1 which states, "Sanitary sewer mains shall be a minimum of ten (10) feet from the right-of-way line." Item #6 of the recommended revisions requires that mains be outside the cartway. He did not know why the Board would want to regulate

this. It used to say "utilities;" now it says "utility mains," which takes water supply and sanitary sewers out of the street. Mr. Fiorletti agreed with Mr. Wiseman, saying that perhaps it does not need to be in there at all. It could be left to the design engineer. Mr. Fiorletti said that he would be amenable to striking the whole thing. Mr. Connolly suggested that the previous language could be used. Dr. Moskowitz made the following amendment to item #6: ". . ."Utility mains shall be located within the right-of-way ~~on both sides of and parallel to the cartway,~~ or within utility easements outside the right-of-way." All agreed to this change.

Mr. Reinhart said that the wording in #7 is unclear. Mr. Connolly said that this needs to be written in two sentences. Chairman Kirkpatrick said that this is the original wording from the RSIS. He asked why the Committee had changed it and what the Committee is trying to clarify here. Mr. Connolly said that it should clarify that, if the driveway does not meet these dimensions, the garage still counts as a parking space.

Dr. Moskowitz referred to item #8, which deals with the promotion of traffic safety. It was decided to amend the language as follows: "~~To avoid corner cutting when inadequate offsets exist between adjacent intersections,~~ Offsets, where provided, shall be at least 150 feet between right-of-way centerlines."

Mr. Malec referred to page 2 of his memo, which had a recommended change to Table 4.3.

Mr. Fiorletti made a motion, which was seconded by Mr. Fehrenbach, to propose the amended changes outlined under A of the recommended revisions for the Streets and Parking subchapter; the vote was unanimous.

Water Supply and Sanitary Sewers Standards --

Chairman Kirkpatrick asked if there were any comments on the memorandum from Mr. Michael Baier, dated April 17th, regarding the proposed changes to the water supply and sanitary sewers subchapters. Mr. Wiseman also noted his addendum to the memo containing four revisions to Table 6.1. *A motion was made by Mr. Frank Doyle, which was seconded by Mr. Fiorletti, to propose the changes to the Water Supply and Sanitary Sewers subchapters with the addendum from Mr. Wiseman; the vote was unanimous.*

Stormwater Management Standards --

On 5:21-7.1(c), Ms. Leslie McGowan asked a question as to whether the municipality has a choice in requiring the control of runoff. The Chairman answered by saying that this has always been the case. He explained that the stormwater management standards in the RSIS take effect only when the municipality requires site improvements for stormwater management. Mr. Fehrenbach asked, in the event that a municipal ordinance is silent on the question of control of runoff, how the design engineer should proceed. Also, what happens when it comes under the jurisdiction of the DEP? Chairman Kirkpatrick responded that DEP rules must be followed. Mr. Connolly noted that it is important to

distinguish between stormwater management and flood hazard management. The Board is not mandating flood hazard management. The municipality decides.

Chairman Kirkpatrick referred to the new draft section for the stormwater management subchapter, N.J.A.C. 5:21-7.7, on pages 7-8 of the proposed changes document. This deals with the maintenance issue. He used the example of two systems to illustrate the issue: a condominium or rental project where a stormwater management system is built to take care of the project, with a treatment train to handle it; and a public system with its own treatment train. The public system is the municipality's responsibility. The confusion is when there are areas in between. The proposed language deals with the two situations; anything that falls in between can be negotiated. He was hopeful that the language in this new section would adequately address the issue. Dr. Moskowitz made a change to the last sentence of paragraph (b) on page 8 of the proposed changes: "Where all of the area drained or all of the collection system is privately owned, then the stormwater management facilities ~~must~~ shall be privately maintained, unless the municipality or other public agency agrees to assume this responsibility." Mr. Fehrenbach asked what the expectation is on what will happen in the gray areas. Chairman Kirkpatrick replied that nothing will change in this regard; the municipalities will do what they have always done.

Ms. McGowan said that she would prefer to stick with the standards the way they are. Dr. Moskowitz asked what her municipality's practice is now. Ms. McGowan said that the facilities are privately maintained in East Brunswick. The homeowners associations hire landscapers to do the work. Chairman Kirkpatrick told her that they can continue to do this still. Mr. Doyle said that the Board has been working on this issue since the Rutgers Model Subdivision and Site Plan Ordinance. Every time, there are different interpretations when it is changed. Ms. McGowan thought the original language on maintenance requirements for a preliminary review of the maintenance standard was clear to begin with.

Chairman Kirkpatrick asked Deputy Attorney General Keith Costill to explain why this language is being proposed. DAG Costill stated that he was asked to determine if the RSIS could require municipalities to maintain or own stormwater management facilities; and whether a regulation to that effect would constitute a prohibited unfunded mandate. Currently, the language in the RSIS would not constitute a prohibited mandate because it leaves the discretion to the approving authority. When the decision is left to the approving authority, the State mandate is removed. To the extent that stormwater management is discretionary, it is not an unfunded mandate. He told the Board members that these are his preliminary observations. He added that what the Board is proposing today does not pose a problem. Mr. Fehrenbach noted that downstream property owners have certain rights and that the upstream parties should not "dump" on them. It may be said that it is a matter of discretion, but the developer may want to do things that will have an adverse effect on the people downstream. He contended that it is a matter of poor discretion. DAG Costill stated that it is highly fact sensitive. He added that the whole idea was to make sure that the stormwater management facilities are maintained. Dr. Moskowitz said

that he thinks the new language attempts to address the issue. He suggested that the Board see how it works out. Mr. Fehrenbach said he would like some time to ruminate over today's discussion. He added that he would like to put this issue off until the next meeting and that he did not feel comfortable taking a position on this right now. *Mr. Wiseman made a motion, which was seconded by Mr. Reinhart, to propose the amendments to the Stormwater Management subchapter; all were in favor except Mr. Fehrenbach and Ms. McGowan.*

PUBLIC COMMENTS

Mr. Joseph Skupien of Somerset County Engineering stated that there are some technical issues to be addressed here. As a representative of the counties and municipalities, he felt that it was best to leave the stormwater maintenance requirement as it is. He said that this change only makes things worse. There is no discussion of maintenance in any of the other technical sections to the RSIS. Stormwater management is not discretionary. This must be addressed. If it is waived, it is because there is no impact. Mr. Skupien told the Board members that he has been involved in court cases where this was not addressed properly. He considers this a big gray area. He could envision a developer using off-site public open land. Mr. Skupien could also see the use of two drainage systems. He requested a copy of the DAG's informal opinion and was told that that was not available to him (attorney/client privilege).

Ms. Amy Fenwick Frank mentioned that the public hearing will take place on June 23rd on the Local Residential Land Development Application. She added that eight written comments had been received by the office to date. Chairman Kirkpatrick remarked that the comments he has heard have to do with the checklist. The Board has not decided whether the checklist is mandatory or if it can be added to.

ADJOURNMENT

Chairman Kirkpatrick adjourned the meeting at 10:57 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Tuesday, September 15, 1998 in Conference Room 134 of the Department of Community Affairs (William Ashby Building) at 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 April 21, 1998

LOCATION

First Floor Conference Room
Building 3B
3131 Princeton Pike
Lawrenceville, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Frank Doyle
Gregory Fehrenbach
Armand Fiorletti
Leslie McGowan
Harvey Moskowitz
Thomas Olenik
Peter Reinhart
Joseph Wiseman
Winfield Ziegenfuss

DCA Staff:

Keith Costill, Deputy Attorney General
Cynthia Wilk, Assistant Director, Division of Codes and Standards
Michael Baier
Mary Ellen Handelman
Andrew Jaskolka
John Lago
Mitchell Malec
Emily Templeton

Guests:

Stephen Schreiber	Bay Pointe Engineering Associates, Inc. (for Stafford Twp.)
Martin Truscott	Bay Pointe Engineering Associates, Inc. (for Stafford Twp.)
Susan Uibel	New Jersey Pinelands Commission

Jessica Sanchez

Office of State Planning, New Jersey Department of the
Treasury

Joanne Harkins

New Jersey Builders Association

Paul Shives

Township of Stafford, Ocean County

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:35 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 date, time, 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, and The Atlantic City Press.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the December 16, 1997 meeting. There were none. A motion was made by Mr. Armand Fiorletti, which was seconded by Mr. Frank Doyle, to approve the minutes; the vote was unanimous.

Chairman Kirkpatrick asked if there were any corrections to the minutes of the January 20, 1998 meeting. There were none. A motion was made by Mr. Doyle, which was seconded by Mr. Fiorletti, to approve the minutes; all were in favor except Dr. Harvey Moskowitz, who abstained due to his absence from that meeting.

OLD BUSINESS

A. Technical Discussion and Public Comment on Special Area Standards Draft Resolution for Stafford Township, Ocean County:

Chairman Kirkpatrick began discussion on the special area standards proposed for the Township of Stafford. He was critical of a provision in the ordinance, 5:21-7.5A(b), that would allow Stafford Township to require infiltration in combination with surface runoff

structures where soil infiltration rates are less than 0.50 inches per second. He said he would prefer to see a specified threshold below which infiltration systems are deemed impractical. What the exact cutoff should be is open for discussion, but Chairman Kirkpatrick said he would like to see an objective and defined standard.

Mr. William Connolly, Vice-Chair of the Board, explained that the reasoning behind the proposed language was that the New Jersey Department of Environmental Protection's (DEP) Stormwater and Nonpoint Source Pollution Control Best Management Practices Manual states that one-half inch per hour is the maximum where infiltration will work. If that is the practical limit, the system should be sized as if it has that rate. Subsection (e) addresses what to do if the volume is greater than what the one-half inch per hour will accommodate. He added that whether or not to require infiltration is a policy decision; how to size the system is a technical one. The breakpoint is determined through a cost/benefit analysis. Chairman Kirkpatrick commented that the DEP's requirements for septic systems are an infiltration rate of one inch per hour and they also require more contact with land area.

Mr. Joseph Wiseman asked what happens with the leftover volume. Mr. Connolly explained that it infiltrates slowly. He added that Stafford had a 60/40 infiltration standard. The Township Engineer, Mr. Stephen Schreiber of Bay Pointe Engineering Associates, Inc., added that dealing with the volume that could not be accommodated by infiltration was left to the design engineer because it could require a site-specific solution. He said that he has reviewed the draft language and supports it. Mr. Peter Reinhart stated that, if the infiltration cannot take care of 100 percent of the volume, then a dual system would have to be provided. Chairman Kirkpatrick said that it will depend on what the treatment train is. He postulated that, if the break-off point is one-half inch per hour, then he would think that if it is less than that, Stafford Township would not do anything. Mr. Winfield Ziegenfuss asked why .5 could not be used as the cutoff. Mr. Connolly responded that, assuming that it is cost effective at .5, to say that it is not cost effective at .49 does not make sense. Mr. Gregory Fehrenbach said that the actual circumstances have to be taken into consideration. He cautioned against unnecessarily restrictive rules that do not allow site-specific flexibility. Chairman Kirkpatrick said that, at a rate significantly lower than .5, the water is just going to sit there. Then if it rains again, the drainage system is overtaxed. He said he wanted to avoid this type of situation. Mr. Fiorletti suggested that subsection (b) should cross-reference subsection (f) on the next page. Mr. Connolly pointed out that the draft language provides a proportion. He said that it is understandable that at some point it becomes ineffective to have infiltration. It is difficult, however, to determine that exact point. For example, if 0.5 is determined to be the cutoff, what about 0.49? He thought that Stafford's objective was to infiltrate some if it could be done. Chairman Kirkpatrick warned that a lot more money will have to be put out for very little benefit. Physically, the stormwater management system has to be bigger. He noted that there is going to be some infiltration. If infiltration is going to be in accordance with these criteria, it will result in a high stormwater infrastructure cost with very little benefit. Mr. Schreiber said that, in looking at the Ocean County soil survey, the infiltration system

can be used with the better soils. In other areas, the .5-inch-per-hour infiltration rate may not work. He told the Board members that this decision needs to be made on a case-by-case basis. Mr. Wiseman pointed out that, in some areas of the Township, it is very hard to infiltrate. Mr. Schreiber suggested looking at the soil survey and the areas that are hard to infiltrate to see what the numbers are. Mr. Fiorletti asked if the applicant had the option to use alternate systems. Mr. Connolly replied that the problem with that is it ends up as a political judgment. The Township of Stafford decides on a case-by-case basis whether to grant a waiver. Chairman Kirkpatrick polled the Board members, asking if they thought the Stafford Township ordinance should have a special limit on when infiltration is required. Mr. Fiorletti said there should be a limit. Most of the members agreed. The Board decided that the Committee and the engineers from Stafford Township will work on establishing a lower limit for the infiltration requirement. Chairman Kirkpatrick clarified that the Board is looking for a number that will work in other areas, as well.

The cost of stormwater infiltration systems was the next thing the Chairman wanted to discuss. He mentioned that the Board received information from the New Jersey Builders Association (NJBA) about a particular development and the high costs that would occur from stormwater infiltration. These costs are said to have added thousands of dollars to the cost of each house in the development. Mr. Connolly reminded him that the Township had already submitted to the Board a cost analysis of the infiltration system that showed the costs of these systems as not unreasonable or burdensome compared to more conventional methods, like detention. Several Board members, however, added that there is information about a development in process where infiltration costs would be significantly higher than more conventional runoff methods. Dr. Thomas Olenik asked about this development and if stormwater infrastructure is a bondable improvement in the Township of Stafford. Township officials said yes. Dr. Olenik also asked if this was figured on actual lots and construction costs. Mr. Reinhart said that he was informed of a development where the costs were in the hundreds of thousands of dollars. Mr. Paul Shives, Township Administrator for Stafford, stated that there was such a development in the planning stages. The Township granted a waiver to the development because of the burdensome costs. Mr. Ziegenfuss asked Stafford to provide copies to the Board of the estimates of the bonding decisions; Township officials agreed to do so. Dr. Moskowitz cautioned that only part of a subdivision may have been bonded. Chairman Kirkpatrick said he would like to have a resolution for the entire Board to review at the next scheduled meeting.

Ms. Joanne Harkins, Director of Land Use and Planning at the NJBA, stated that she has some technical comments on the Stafford special area standards. Her comments dealt with (1) cost of the infiltration systems, (2) ownership and maintenance responsibility of the infiltration systems, and (3) the time and expense of obtaining the necessary DEP permits for groundwater discharge. She stated that the cost of the system is excessive because of the volume of pipe required to construct it. Ms. Harkins used the example she had referred to previously in correspondence to the Board of a development of 35 homes. The initial infiltration system for this development would have required three miles of pipes

covered in a special fabric laid in a special type of gravel in a drainage ditch in the ground. The pipe is very expensive. Estimates provided to her indicated the total cost of the stormwater system was \$900,000. She felt that, clearly, builders should not have to do this type of thing. Ms. Harkins told the Board members that they really have to envision how much piping would have to be put in the ground. She confirmed that the cost estimates for the aforementioned example were good and the builder did reach a waiver because the costs were so burdensome. Regarding ownership and maintenance responsibility of systems, she stated that the NJBA has already submitted comments that the infiltration systems should be maintained by the municipality. Ms. Harkins added that there also is an issue of ownership. Who replaces the systems when they need to be replaced? The Township should own the systems and assume this burden. There should not be any homeowners associations maintaining the facilities. Regarding DEP permits, she said that a discharge to groundwater permit is needed for such systems. It would be very expensive to get these permits. This needs to be addressed. She told the Board members that, if they require these systems, then it has to be worked out as a permit by rule.

Chairman Kirkpatrick addressed the comment on DEP permits first. He told her that this draft is not the entire resolution. Those things will be worked out and put in the resolution. The DEP has agreed to grant Stafford a general permit for groundwater discharge. This will be in one of the "whereas" sections. Mr. Connolly stated that the DEP permit is addressed as a condition of a rule. Regarding Ms. Harkins' comment on maintenance, the Chairman said that the draft amendments to the Residential Site Improvement Standards (RSIS) provide that the municipality is responsible for maintenance of the stormwater system. The resolution does not say that it is owned by the municipality. The system may be owned by a homeowners association, but the municipality must maintain it. Mr. Reinhart pointed out that the municipality may still try to pass on the cost of this maintenance. The Board could also stipulate that the cost not be passed on to the homeowner as a condition. Dr. Moskowitz asked who is responsible if the system fails. Mr. Connolly replied that, in these draft amendments to the rule, it is the municipality. Mr. Fehrenbach asked whether the Board has jurisdiction regarding the ownership versus maintenance issue. Chairman Kirkpatrick declared that the Board is able to address maintenance because without it the system does not work. Mr. Keith Costill, Deputy Attorney General to the Board, said that the Board can require that the facility or structure be maintained by the municipality. Mr. Fehrenbach asked him if there is specific language in the Site Improvement Act that says this. DAG Costill told him no. Mr. Connolly stated that it would be inappropriate to approve Stafford's application but for that provision. If the Township of Stafford wants this special area standard approved, on condition of that, the Board can stipulate that the facility be maintained by the municipality. Mr. Fehrenbach said he still does not think that the Board can require the municipality to maintain the facility. Chairman Kirkpatrick said that the Storm Water Management Standards Committee will review the Stafford resolution and the Board will likely vote on it at the next meeting. He stated that he would like to see some additional cost information on the proposed development that was discussed. Mr. Ziegenfuss added that Ms. Harkins and

the NJBA should be prepared to talk about these costs. Mr. Shives maintained that, in the particular development under discussion, the cost differentials presented by the NJBA were not finalized. He stated that the developments in Stafford Township to which he believes NJBA is referring have not been costed-out. He said that to suggest the infiltration costs were \$900,000 is disingenuous.

B. Comments Received on the Procedures for Special Area Standards Proposal:

Chairman Kirkpatrick noted that two organizations have commented on the proposal: the NJBA and the New Jersey Manufactured Housing Association. Members of the Board offered their comments on the NJBA letter.

Regarding the paragraph on subsection 5:21-3.5(c)1 of the proposal, Mr. Fehrenbach stated that, under the Right-to-Know Law, it is automatic that documents be made available for a certain cost.

Regarding the paragraph on 5:21-3.5(c)1i, Dr. Moskowitz said that, when a town changes the standards, it is done in the usual way. This suggested change is not one he believes should be considered by the Board.

Regarding the comment on subsection 5:21-3.5(c)2, Chairman Kirkpatrick remarked that, when something comes in, the committee needs to schedule a meeting to handle it. Sometimes it takes more than one meeting to come to an agreement on a recommendation to the Board. Mr. Connolly commented that he thinks the issue here is how many opportunities the Board needs to offer for public comment. He asked how much of this is necessary. He added that the committees are balanced and represent a lot of different views. Mr. Reinhart explained that the committee will meet and make a recommendation. The other Board members may just go along with the professionals on that committee. He stressed that the public comment is important. Mr. Wiseman felt that the committee should first review the application and then let the public comment on it at a Board meeting. Chairman Kirkpatrick noted the differing procedures on the table and asked which one the Board should go with. Dr. Moskowitz pointed out that the suggested change is that the committee does not take action on the application for 45 days. Chairman Kirkpatrick outlined the current procedures being followed by the Board: the application is first forwarded to committee for review, the committee meets and makes a recommendation to the Board, and the Board discusses it at its next meeting during a public hearing at which time public comments are heard. In taking the public testimony the Board may decide to take a vote on the draft resolution, schedule the matter for further consideration at its next meeting, or send it back to committee for further review in light of Board discussion and/or the public comments received. Dr. Moskowitz pointed out that the NJBA has long complained that the government takes forever to get anything done. Now it wants to build in more delays. He felt it should make up its mind.

Dr. Moskowitz asked whether all applicants know they have to apply to be included in an action taken that affects their area. DAG Costill responded that the application is not

complete until all applicants have applied. Mr. Connolly clarified that all applicants have understood that they need to get the approval before it becomes effective. Dr. Moskowitz suggested, until the Board sees some errors, to leave the procedures as they are. Also, the DCA should compile a list of interested parties. *A motion was made by Mr. Fiorletti, which was seconded by Mr. Doyle, that the DCA Commissioner adopt the proposed procedures for special area standards; the vote was unanimous.*

NEW BUSINESS

A. Recommendations from Committees on First Annual Review of the Residential Site Improvement Standards:

Streets and Parking Standards Committee --

Mr. Fiorletti reported that there are no major recommended revisions to the streets and parking provisions. The recommended revisions serve to clarify the requirements. He advised the Board members that he was aware that the New Jersey Society of Municipal Engineers is looking at revisions to the thickness of pavement sections contained in the Asphalt Handbook for County and Municipal Engineers referenced by the RSIS, and said that he will forward the recommended revisions to the Streets and Parking Standards Committee as soon as he gets a copy. There were no comments on the Committee's recommendations.

Water Supply and Sanitary Sewers Standards Committee --

Mr. Wiseman reported that there is nothing controversial in the recommendations being made. The work remaining to be done is on the detail for PVC pipe drainage. The Water Supply and Sanitary Sewers Standards Committee should have this in the next week or so. Chairman Kirkpatrick said that the Board will vote on the recommendations being made by the committees at the next meeting.

Storm Water Management Standards Committee --

Mr. Doyle referred to page 2, 5:21-7.5(e) of the Storm Water Management Standards Committee document in the meeting packet, noting a mistake had been made in copying the text from the RSIS into this document, as a portion of the subsection's text was missing. It was agreed that the language mistakenly omitted will be reinserted.

Chairman Kirkpatrick said that the Committee is trying to clarify the issue of who is responsible for maintaining drainage facilities. Ms. Leslie McGowan stated that she does not dispute the need to maintain these facilities, but she does take exception to the proposed wording that would force municipalities to assume this responsibility when the drainage system is simply part of a public system. Chairman Kirkpatrick said that the party responsible for maintenance must be named in the application and, therefore, is on file. Ms. McGowan responded that having a name on file is not the solution. She expressed concern that the public works department may not be capable of maintaining and mowing these basins. She said that she does not think that the public works

department knows the difference between plants that are planted to pick up petroleum chemicals in the water and other weeds. Ms. McGowan further stated that the public works people may not know what the residents want done to the landscaping when performing maintenance work on a basin. Chairman Kirkpatrick responded that some basins do not need to be mowed. He stated that the municipality should plan on detention basins that are virtually maintenance free. He pointed out that this responsibility is not retroactive. Ms. McGowan acknowledged that fact, but added that in most developments some mowing is always needed, such as edging, and therefore this is always an issue.

Mr. Fehrenbach stated that there is a statute on the books that if there is a State mandate, the State must pay for it. He questioned the ability of this Board to require municipalities to maintain these basins or facilities. He asked who is going to decide whether the runoff comes from public or private property. Mr. Fehrenbach asserted that the Board cannot push this off on municipalities in violation of the State Mandate/State Pay Law. Chairman Kirkpatrick told him that these basins have inlets and asked him if he felt that State mandate/State pay applies to this. He asked Mr. Fehrenbach if he expects the people that live around these detention basins to pick up the floatables, clear the cleanouts, etc. Chairman Kirkpatrick then asked him why he expects the State to pay for stormwater maintenance. Mr. Fehrenbach told him that the Board is jumping from the need to maintain the basin to saying that the municipality is the one to do it. Chairman Kirkpatrick said that if State mandate/State pay seems to be an issue, the Board could request a legal opinion from the DAG. DAG Costill said that there would be an implied incidental power of the Board to require this. He noted that the Site Improvement Act predates the State Mandate/State Pay Law.

Ms. McGowan pointed out that the language is strict in that if there is *any* municipal contribution, the entire system is the responsibility of the municipality. Mr. Connolly agreed that a literal reading says that and commented that this must be addressed. Dr. Moskowitz recommended that the language be amended to provide for "most" rather than "any." Mr. Doyle asked what happens if stormwater runoff from a private road goes into a municipal basin. He asked where that dividing point is on who pays for what. Dr. Moskowitz commented that the entire development process involves negotiation. Mr. Fehrenbach agreed and stated that negotiation and agreement should be the vehicle for deciding who will maintain the facility. Dr. Moskowitz did not think that there was anything wrong with the standards setting up guidelines to follow and defining maintenance responsibility in general terms. As the standard reads now, if the drainage system is part of a public drainage system, then the municipality assumes responsibility for upkeep. "Part of a public drainage system" could be defined in general terms. If most of the runoff in the system comes from public infrastructure, then the municipality should assume upkeep responsibility. Mr. Fehrenbach agreed with providing guidelines, but objected to a mandate on this issue. Mr. Connolly asked that, before DAG Costill researches the issue, the Board take a position on the question. *A motion was made by Dr. Moskowitz that the RSIS shall name the party responsible for the maintenance of certain stormwater management systems. The vote was held and all were in favor, except Ms. McGowan*

and Mr. Fehrenbach, who were opposed. Chairman Kirkpatrick directed DAG Costill to provide the Board with an opinion on the State mandate/State pay issue and whether the Board can specify responsibility.

B. Local Residential Land Development Application:

Chairman Kirkpatrick noted that the model application form and checklist, entitled the "Local Residential Land Development Application," will be published in the New Jersey Register on May 18th.

C. Superior Court Appellate Division Decision in the Case of the New Jersey State League of Municipalities v. the New Jersey Department of Community Affairs:

Mr. Connolly summarized the outcome of the lawsuit brought against the DCA by the New Jersey State League of Municipalities over the content of the RSIS by stating that DAG Costill "won a complete victory." He pointed out that the League had sent a letter to all municipalities claiming that the stormwater rules in the RSIS have been invalidated by the Superior Court, but that is not the case. In the decision, the RSIS is validated. He explained that the Court did point out that there is an inconsistency among the RSIS, the DEP, and the Coastal Area Facilities Review Act regulations. Although the RSIS was the result of an agreement with the DEP and was based on the rules the DEP intended to promulgate, the RSIS conflicts with current DEP rules, which have not yet been amended. The area of identified conflict is that the Municipal Stormwater Management Act sets the municipal minimum; the RSIS states that it is the minimum that must be provided and the maximum that can be required. The RSIS is in the process of being amended to conform with DEP requirements.

D. Changes to Committee Membership:

It was noted that Dr. Olenik had a potential conflict of interest in reviewing the special area standard application for the Township of Harding as a member of the Storm Water Management Standards Committee and he asked to be recused of this duty. Mr. Wiseman volunteered to act as his substitute.

E. Committee Referral of Special Area Standards Application from the City of Hoboken, Hudson County:

Chairman Kirkpatrick stated that the Board is in receipt of a special area standard request from the City of Hoboken. In reviewing its content, he referred it to the Streets and Parking Standards Committee.

Chairman Kirkpatrick asked what is the consequence for municipalities that do not comply with the RSIS. Mr. Connolly responded that he is preparing a letter that addresses this issue. Municipalities and their employees are bound to abide by the law. Action can be taken when they do not.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

Chairman Kirkpatrick adjourned the meeting at 11:32 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Tuesday, June 16, 1998 in the first floor conference room of Building 3B at 3131 Princeton Pike in Lawrenceville, New Jersey.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of January 20, 1998

LOCATION

First Floor Conference Room
Building 3B
3131 Princeton Pike
Lawrenceville, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Frank Doyle
Armand Fiorletti
Thomas Olenik
Peter Reinhart
Winfield Ziegenfuss

DCA Staff:

Keith Costill, Deputy Attorney General
Cynthia Wilk, Assistant Director, Division of Codes and Standards
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
Andrew Jaskolka
Emily Templeton

Guests:

Susan Uibel	New Jersey Pinelands Commission
John Mullan	Bay Pointe Engineering Associates, Inc. (for Stafford Township)
Joanne Harkins	New Jersey Builders Association
Hunter Birckhead	State Soil Conservation Committee, New Jersey
	Department of Agriculture

CALL TO ORDER

Mr. Robert 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 date, time, and place of this meeting was given to the Secretary of State of New Jersey, The Star-Ledger of Newark, and The Times of Trenton.

OLD BUSINESS

Special Area Standards Resolution #98-1 for the City of Long Branch, Monmouth County:
A motion was made by Mr. Armand Fiorletti, which was seconded by Mr. Frank Doyle, to approve Resolution #98-1, "Special Area Standards for Parking in the City of Long Branch, Monmouth County." The vote was unanimous. Chairman Kirkpatrick noted that the resolution refers to a map, which outlines the special area. He asked that the map be included with the resolution. It was noted that special area standards will appear in future revisions of the Residential Site Improvement Standards (RSIS) as an appendix.

Chairman Kirkpatrick asked if there were any comments from the Board members. Mr. Peter Reinhart stated that he appreciates being notified of the Board correspondence which Mr. William Connolly, Vice-Chair of the Board, responds to. Chairman Kirkpatrick commented that Mr. Connolly's responses have been clear and helpful. Mr. Connolly agreed to continue responding to questions and added that, if any Board members do not agree with a response he has made, the Board can discuss it. He assured the Board members that the Department of Community Affairs staff always sends the Board copies of all correspondence it receives, which is directed to the Board or relates to the RSIS, along with any responses made, so they are kept fully apprised of what is going on.

Chairman Kirkpatrick mentioned that Mr. Keith Costill, Deputy Attorney General to the Board, is looking into the question of municipalities that are not complying with the standards. Mr. Reinhart referred to the last two letters the Board members were sent: one received from Mr. Nathan C. Allison of Amertech Engineering, Inc., dated December 24, 1997, regarding the design of detention facilities and the definition of the "seasonally-high" groundwater condition; and one from Mr. J. David Ramsey of the New Jersey Chapter of the Community Associations Institute, dated December 18th, regarding responsibility for

stormwater facilities. Chairman Kirkpatrick responded that the Storm Water Management Standards Committee will respond to the issues in the letter from Mr. Allison. The letter from Mr. Ramsey will be addressed by the entire Board.

Ms. Amy Fenwick Frank stated that the proposal for the procedures for special area standards will appear in the February 17, 1998 issue of the New Jersey Register. There will be a 30-day comment period.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

Chairman Kirkpatrick adjourned the meeting at 9:45 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Tuesday, February 17, 1998 in the first floor conference room of Building 3B at 3131 Princeton Pike in Lawrenceville, New Jersey.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of December 16, 1997

LOCATION

First Floor Conference Room
Building 3B
3131 Princeton Pike
Lawrenceville, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Frank Doyle
Armand Fiorletti
Leslie McGowan
Harvey Moskowitz
Peter Reinhart
Joseph Wiseman

DCA Staff:

Keith Costill, Deputy Attorney General
Cynthia Wilk, Assistant Director, Division of Codes and Standards
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
Andrew Jaskolka
John Lago
Mitchell Malec
Joyce Paul
Emily Templeton

Guests:

Martha Kremer	Township of Stafford
John Spodofora	Township of Stafford
Susan Uibel	New Jersey Pinelands Commission
Carlos Rodriguez	Office of State Planning, New Jersey Department of
the Treasury	
Gene McColligan	Office of Environmental Planning, New Jersey
Department of Environmental Protection	
Joanne Harkins	New Jersey Builders Association
Daniel J. Van Abs	Office of Environmental Planning, New Jersey

Department of Environmental Protection	
Sabine von Auloir	Morris County Planning Board
Martin Truscott	Bay Pointe Engineering Associates, Inc.
Joseph Skupien	Somerset County Engineering
Jessica Sanchez	Office of State Planning, New Jersey Department of the Treasury
Hunter Birkhead	State Soil Conservation Committee, New Jersey Department of Agriculture

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:37 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 date, time, and place of this meeting was given to the Secretary of State of New Jersey, The Star-Ledger of Newark, and The Times of Trenton.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the October 14, 1997 meeting. He asked what the term "as-of-right development" refers to in the last sentence of the top paragraph on page 3. Mr. William Connolly, Vice-Chair of the Board, explained that it is a development proposal fully in compliance with municipal zoning and not needing any variances. *The vote was called for and all were in favor except Ms. Leslie McGowan, who abstained due to her absence from that meeting.*

COMMITTEE REPORTS

A. Storm Water Management Standards Committee:

Chairman Kirkpatrick reported that the Storm Water Management Standards Committee is starting to collect county stormwater standards, which are not affected by the Residential Site Improvement Standards (RSIS) and may impose separate requirements. He was concerned over inconsistencies between county standards and the RSIS. The county standards will be analyzed to determine areas where county requirements and statewide standards conflict. He also briefed the Board members on the status of the special area standards application submitted by Stafford Township, which is still in process.

B. Streets and Parking Standards Committee:

Mr. Armand Fiorletti reported on a meeting held December 1st concerning a study item on drainage structures, issues

still under review (mobile home parking and road design; bikeways; streets with a grade of 0.5 percent, and utilization of curbs and gutters; and installation of road under drains), a review of a parking/street design, changes to Table 4.3, Figures 4.2 and 4.3, illustrations, Long Branch's special area standards request, the Harding Township special area Resolution #97-1, and street and site lighting.

OLD BUSINESS

A. Model Application Form and Checklist:

Mr. Connolly told the Board members that the Model Application Form and Checklist in the meeting packet will be sent to the Department of Community Affairs (DCA) Commissioner for approval so it can be published in the New Jersey Register as a proposal. Along with the proposal, the DCA will solicit comments on whether municipalities may add anything to the checklist.

Mr. Frank Doyle first suggested that some room be left at the top of the Local Residential Land Development Application form for the name of the municipality. He next pointed out that the Site Improvement Act indicates that the Board should put together a model for all the municipalities in the State to use as a guideline; it should not be mandatory. He noted that the Rutgers Model Subdivision and Site Plan Ordinance also says "model." Mr. Doyle felt that municipalities should be able to add to the list of items on the checklist. *Chairman Kirkpatrick told him that his first comment is a good one and that this can be done.* He asked Mr. Keith Costill, Deputy Attorney General to the Board, to address the other two comments. DAG Costill said that the model application form and checklist are meant to be mandatory, because the Act says the application should be used throughout the State. He stated that the question of adding items is a policy call that the Board must make. Mr. Doyle felt that the Board should reexamine whether or not the application form and checklist are mandatory. Mr. Peter Reinhart said that he suspects this issue will come up in the public comments.

Ms. McGowan referred to items #40 and #42 on page 8, saying that this shows that information on the proposed system of drainage is for final stage review, not preliminary. She said vested rights are determined at the preliminary phase. She stated that she does not see how it cannot be required on both preliminary and final subdivisions and site plans. Ms. McGowan added that the engineering drives the design of the site. Mr. Reinhart referred to #39 and asked whether this information is gotten as part of that item. Chairman Kirkpatrick said that the current practice is to require these for preliminary subdivision and site plan review. Ms. McGowan said that by doing this (i.e., leaving such information until final site plans/subdivisions) she can foresee the entire plat having to be redesigned. A discussion ensued. Mr. Connolly illustrated how, under the building code, the DCA issues footing and foundation permits before the structural design is done, but the remainder of the project must still comply with the code. This is done at the developer's risk if the developer has gotten it wrong. For instance, if the wind load is wrong, it would have to be redesigned. Likewise here, the municipality is not trapped in any way. Ms. McGowan argued that this is not good planning. Chairman Kirkpatrick stated that, in practice, drainage calculations are generally required at the preliminary stage. Mr. Reinhart cautioned that this is not a universal practice. Dr. Harvey Moskowitz suggested instead of "schematic" design to use the word "preliminary." He agreed that drainage calculations drive the design. Mr. Connolly felt that the detailed engineering should be done for the final so that it does not have to be redone if there are changes. Mr. Fiorletti said that he thinks the calculations belong in the preliminary plans. Mr. Joseph Wiseman stated that working on a small scale is good planning and in that way he disagrees with Ms. McGowan.

Chairman Kirkpatrick called for a vote on the two changes discussed by the Board members on the application checklist. For #39, the amended language should read: "Existing system of drainage of subject site and schematic

preliminary design of proposed system of drainage (including preliminary drainage calculations)". All were in favor of this change except Mr. Reinhart, who abstained. Mr. Connolly inquired what "preliminary drainage calculations" were. Dr. Moskowitz replied that the Board is not interested in manholes, but in whether the system will work given the sizes it is based on.

For #42, the language was amended to read: "Final drainage calculations". All were in favor of this change.

Chairman Kirkpatrick said that he would like to put the cover sheet at the beginning with the application form and checklist.

Mr. Fiorletti asked when this will be published in the New Jersey Register. Mr. Connolly replied probably in February. Mr. Doyle asked if this will be sent to every planning board. Mr. Connolly told him that this was already done approximately eight months ago and many planning boards commented. *A motion was made by Mr. Fiorletti, which was seconded by Mr. Wiseman, to publish the Local Residential Land Development Application as a proposal in the New Jersey Register; the vote was unanimous.*

B. Pending Special Area Standards:

1. Stafford Township, Ocean County --

Chairman Kirkpatrick stated that the Storm Water Management Standards Committee will be meeting with Stafford Township on December 17th. He said that the Committee members are concerned with New Jersey Department of Environmental Protection (DEP) groundwater discharge rules and their effect on infiltration systems, but are continuing to work with the Township on a special area ordinance. He explained that Stafford has applied for special area status because it is a region that is susceptible to salt water intrusion. The Committee should soon have a recommendation for the Board. Chairman Kirkpatrick asked if there were any public comments on this.

Mr. John Spodofora, Stafford Township Councilman, presented a letter responding to an earlier letter from the New Jersey Builders Association that complained about the costliness of infiltration systems. Mr. Reinhart said that he did not think that anything should be done before the special area standards procedures are set. Councilman Spodofora also asked about the kind of information the Committee needs to see to document the salt water intrusion issue in Stafford. Chairman Kirkpatrick replied that all the Committee is looking for is that salt water poses a threat to drinking water. Councilman Spodofora said that he would like to put together some additional information from surrounding towns on this and the Kirkwood aquifer. Dr. Daniel Van Abs, Assistant Administrator of Administration/Statewide Program Development in DEP's Office of Environmental Planning, stated that his agency is also concerned with salinity in the Barnegat Bay itself. Chairman Kirkpatrick replied that evidence of that would be helpful, too.

2. Harding Township, Morris County --

a. Private Roads

Chairman Kirkpatrick noted that the meeting packet contained Resolution #97-1, "Special Area Standards for Private Roads in Harding Township, Morris County." He asked if there were any comments on this before the Board takes a vote. Mr. Fiorletti said that there was no objection from the Streets and Parking Standards Committee. Mr. Reinhart again raised an objection, saying that he still does not think the Board should do this right now. DAG Costill told the Board members that, as they are aware, the special area standards are part of the appeal. It is his

belief that the Appellate Division is going to uphold it. While the appeal is pending, the Board has decided to go ahead. He felt that the Board should wait until procedures for special area standards were adopted and asked if there is an urgency to this. Chairman Kirkpatrick said that the Board approved it three to four months ago. Mr. Connolly said that the Township of Harding does have some development applications which comprise about 20 homes. He felt that the Board should not wait because someone who is not very well informed has said that procedures should be decided upon. He added that, if the DAG is suggesting anything, he is asking the Board to stop everything and start all over. Mr. Connolly asked if procedures are so fundamental to due process that the Board must go back to square one and start over. Chairman Kirkpatrick agreed, saying that the Board does not want to be an agency that cannot make a decision. He would like to send the message that, when the Board makes a decision, it carries through with it. *A motion was made by Mr. Doyle, which was seconded by Mr. Fiorletti, to approve Resolution #97-1. All were in favor except Mr. Reinhart, who abstained.*

b. Stormwater Management

Chairman Kirkpatrick noted that Harding Township has an infiltration issue as well. This will be included in the December 17th meeting of the Storm Water Management Standards Committee.

3. City of Long Branch, Monmouth County --

The Streets and Parking Standards Committee had no objection to this application, and Mr. Connolly said that the Board can make a resolution that it can vote on at its next meeting. *A motion was made by Mr. Fiorletti, which was seconded by Mr. Wiseman, that the Board members should discuss this item and continue with the processing of the application.* Chairman Kirkpatrick asked about the letter on this from the New Jersey Department of the Treasury's Office of State Planning suggesting that it be a *de minimis* exception. Mr. Connolly responded that, through the special area standards, the City of Long Branch desires to limit on-site parking and is trying to encourage on-street parking within certain areas. He said that the Committee wants the cap to be relatively low. He noted that Mr. Peter Buchsbaum, Special Redevelopment Counsel to the City of Long Branch, did not believe that *de minimis* exceptions apply because the RSIS give a maximum, with the local planning board able to grant fewer. This application is for something other than on-site parking; namely, on-street parking. The local board had no way to address this and, thus, the application for special area standards. Dr. Moskowitz stated that this is exactly the intent of the special area standards. Mr. Connolly added that this item is the only thing that the City could not accomplish within the standards, which is good. *Chairman Kirkpatrick asked DCA staff to prepare a draft resolution for Long Branch's special area standards to be voted on at the next Board meeting and to send a copy to Long Branch as soon as possible.* He asked if the City has advertised in the local newspapers about this. Mr. Reinhart said that the Board should encourage Long Branch to advertise. *The vote was called for and all were in favor.*

C. Maintenance of Stormwater Management Facilities:

Referring to a memorandum in the meeting packet, dated June 23rd, regarding Clarification of Maintenance Responsibilities, Stormwater Management Systems, Chairman Kirkpatrick said that, with respect to the Storm Water Management Standards Committee which put this requirement in the RSIS, it was the intention that stormwater management facilities need to be maintained. He felt that this should not be in the hands of "lay people," such as homeowners associations. He identified stormwater management facilities as part of a public system that should be maintained by the town. This should be in the hands of a bona fide professional. Ms. McGowan said that she does

not dispute that facilities need to be maintained, but felt the current interpretation of the RSIS under consideration by the Board goes too far and would place a heavy burden on municipalities, requiring that they assume maintenance responsibility for any system that is part of a municipal drainage system. Several Board members assumed this to mean, if runoff from a public road drains to a basin on private property, the municipality must assume maintenance responsibility.

Ms. McGowan argued that maintenance of roads is not specified in the standards and neither is maintenance of stormwater management facilities. Chairman Kirkpatrick stressed the importance of maintaining their function to protect riparian facilities downstream. Ms. McGowan defended the ability of homeowners associations to maintain these facilities and pointed out that many have done so successfully. Mr. Reinhart said that, to him, this is absolutely a government function. Ms. McGowan referred to the wording that the municipal engineer or an agency named by the municipality should be responsible. Mr. Connolly stated that, for infiltration systems, maintenance of the system is essential to its functioning, making this a technical issue. He said that the reason the DEP thinks Stafford has a good system is because Stafford assumed responsibility for the maintenance of its stormwater management facilities. The responsibility to maintain is a public function; it is a government function to protect the waters. Mr. Reinhart felt that it did not make sense for the town to designate someone to take care of such a system and, when this person does not do his job, the municipality must go in and fix it. Ms. McGowan expressed concern about adding maintenance to the RSIS. Chairman Kirkpatrick argued that the failure of a road does not affect water quality; road maintenance and maintenance of stormwater management facilities cannot be compared. He emphasized his point that someone has to maintain stormwater management facilities and it should not be the homeowners.

Mr. Connolly told the Board members that, if the Board wants to do what the Chairman is proposing, this would have to be done through the New Jersey Register. Ms. McGowan referred to the New Jersey Register, where a response was given to the comments. Mr. Connolly said that the DCA had given this interpretation in response to comments received. Chairman Kirkpatrick stated that the Committee will recommend wording that will clarify maintenance responsibility. This new wording will be considered by the entire Board when it makes its yearly review of the RSIS. Mr. Charles Richman, DCA Assistant Commissioner, agreed that this is a good idea. Dr. Moskowitz added that the proposal should note the concern with water quality. Ms. McGowan asked if anything can go into the standards to require a developer to put up seed money for the town to use in the maintenance of these facilities. Chairman Kirkpatrick asked the DAG if the Board can allocate maintenance of stormwater facilities. Mr. Wiseman said it is appropriate to assign responsibility because maintenance -- or lack of maintenance -- affects people in other areas.

NEW BUSINESS

A. Procedures for Special Area Standards:

Referring to the proposal in the meeting packet, Mr. Fiorletti questioned the requirement to meet monthly. *In response, Mr. Connolly suggested a change to page 6, subsection 5. All were in favor of amending the language as follows: "The Board and any of its committees shall meet at least monthly when any application for approval of special area standards is pending ripe for action before them."* Dr. Moskowitz asked if a taped recording will be made of the meetings. Mr. Connolly replied that the staff will tape-record, but not transcribe, the proceedings. *Dr. Moskowitz suggested a further change on page 6 under (d)4, which Mr. Reinhart amended and all were in favor. The language was amended to read: "Site improvement standards for use in the special area are set forth in a an ordinance or draft ordinance that has been referred to the Board for approval by resolution of the municipal governing body." A motion was made by Mr. Reinhart, which was seconded by Mr. Wiseman, to approve the proposal; the vote was*

unanimous.

B. 1998 Schedule of Board Meeting Dates:

The draft schedule in the meeting packet delineated the second Tuesday of every month as a possible meeting date. Mr. Reinhart said that his schedule conflicted with this and asked if the third Tuesday of each month would work. *There being no problems voiced over this schedule, it was decided that the third Tuesday of each month would be reserved for Board meetings, and that all meetings would begin at 9:30 a.m. and be held in the first floor conference room of Building 3B at 3131 Princeton Pike in Lawrenceville, New Jersey.* The meeting dates are as follows:

January 20
 February 17
 March 17
 April 21
 May 19
 June 16
 July 21
 August 18
 September 15
 October 20
 November 17
 December 15

Chairman Kirkpatrick asked if there were any comments from the Board members. Dr. Moskowitz asked if there are any other Board members that belong to the American Institute of Certified Planners (AICP) or the American Planning Association (APA). He referred to a letter that stated that the RSIS was not prepared by anyone belonging to the AICP or the APA and he wanted to show that some of the Board members were representatives of these organizations. It was noted that Ms. McGowan is a member of the AICP.

Chairman Kirkpatrick stated that he has been asked what happens if municipalities do not comply with the RSIS. He said that there appear to be planning boards that are not enforcing the RSIS. He added that there are no RSIS "police." It is not the Board's position to enforce the standards; it is up to the municipality to make sure that they are followed. Dr. Moskowitz pointed out that the courts have been very firm with municipalities that have not gone over their master plans every so many years. Mr. Connolly commented that it would seem to him that any board that refuses to go along with the standards would be liable for their actions. Just because the law gave no oversight responsibility does not mean that people can violate the law. *Mr. Reinhart suggested that perhaps the DAG could issue an informal opinion; then that opinion could be distributed to all municipalities.* Chairman Kirkpatrick asked if the Board members agreed to Mr. Reinhart's proposal. *No one objected.* Chairman Kirkpatrick then said he would request the informal opinion from the DAG.

PUBLIC COMMENTS

Mr. Joseph Skupien of Somerset County Engineering emphasized the importance of the maintenance issue. He stated that he was the instructor at the sessions on the RSIS and taught the interpretation that runoff from a public road to a basin or private property meant public responsibility for maintenance. He said that this would burden local governments. Mr. Skupien said that Somerset County maintains about four dozen basins. He felt that homeowners associations have done a good job and can maintain basins. He agreed that the maintenance must be done. The need for most basins is created by developments. Mr. Skupien did not agree with making the municipalities responsible for developments. Secondly, the standard in the State right now is that the municipalities can take over the maintenance if it is necessary. It is not fair to the rest of the taxpayers to require the towns to be responsible. He commented that he sees

this as a "State mandate, State pay" issue. Chairman Kirkpatrick countered that municipalities and counties put tax burdens on land by zoning before it gets developed for what it was zoned for.

Ms. Joanne Harkins, Director of Land Use and Planning at the New Jersey Builders Association, stated that the reason government exists is to provide infrastructure and services; and to maintain services for public safety, health, and welfare.

Dr. Vans Abs told the Board members to be thankful that they are dealing only with new development. He stated that the Federal Environmental Protection Agency will be coming out with municipal stormwater permits. He said that this is a very difficult issue because good analogies cannot be found with other types of infrastructure and some systems go public/private/public/private.

Dr. Moskowitz said that he gave Mr. Mitchell Malec a copy of the mobile home park standards.

ADJOURNMENT

Chairman Kirkpatrick adjourned the meeting at 11:03 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Tuesday, January 20, 1998 in the first floor conference room of Building 3B at 3131 Princeton Pike in Lawrenceville, New Jersey.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of October 14, 1997

LOCATION

First Floor Conference Room
Building 3B
3131 Princeton Pike
Lawrenceville, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Frank Doyle
Gregory Fehrenbach
Armand Fiorletti
Harvey Moskowitz
Thomas Olenik
Peter Reinhart

DCA Staff:

Daniel Reynolds, Deputy Attorney General
Cynthia Wilk, Assistant Director, Division of Codes and Standards
Michael Baier
Amy Fenwick Frank
Mary Ellen Handelman
John Lago
Mitchell Malec

Guests:

Joseph Skupien	Somerset County Engineering
Susan Weber	Bureau of Statewide Planning, New Jersey
	Department of Transportation
Mimi Upmeyer	Association of New Jersey Environmental
	Commissions
Joanne Harkins	New Jersey Builders Association
Thomas F. Carroll, III	Hill Wallack/New Jersey Builders Association

Hunter Birckhead

State Soil Conservation Committee,
New Jersey Department of
Agriculture

Carlos Rodriguez

Office of State Planning, New Jersey
Department of the Treasury

Jay G. Cranmer

MCW Enterprises

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:35 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 date, time, and place of this meeting was given to the Secretary of State of New Jersey, The Star-Ledger of Newark, and The Times of Trenton.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the June 30, 1997 meeting. Mr. Frank Doyle referred to page 9 under Application for Special Area Standards from Harding Township, Morris County. The second sentence of the fourth full paragraph should be corrected to read: "Ms. Kimball said It was noted that everything in the developable part of the Great Swamp Watershed is in the Planning Area 8 5 category." A motion was made by Mr. Doyle, which was seconded by Dr. Thomas Olenik, to approve the minutes. All were in favor except Mr. Armand Fiorletti, Mr. Peter Reinhart, and Mr. Gregory Fehrenbach, who abstained due to their absence from part or all of that meeting.

COMMITTEE REPORTS

A. Model Application Form Committee:

Mr. William Connolly, Vice-Chair of the Board, gave a status report on the Model Application Form and Checklist. He said that the Model

Application Form Committee had unresolved issues which it decided to bring before the Board.

As a member of this Committee, Mr. Fehrenbach explained his reservation as a policy concern. He noted that the checklist covers a piece of what the Municipal Land Use Law (MLUL) covers, then stated that municipalities should be able to add a page for items required by municipal ordinance consistent with the MLUL. He still believes that there is an opportunity to provide this on the checklist to clarify it for the municipalities. Mr. Fehrenbach felt that there ought to be wording in the checklist that makes it clear to municipalities that certain things may be added to the checklist according to what they have in their ordinance. Mr. Reinhart clarified Mr. Fehrenbach's point. As an example, Mr. Fehrenbach said that the municipality may install in the checklist a requirement for a traffic impact analysis, which the municipality can make mandatory for "package completeness." Chairman Kirkpatrick noted that the Board had discussed this before and had decided that the checklist would be mandatory. Mr. Connolly pointed out that the standards and the checklist are independent. He said it is not uncommon to include an economic impact statement. The checklist was not intended to strike out those statements that might be needed, but such additional information cannot be required for an as-of-right development.

Dr. Harvey Moskowitz stated that all of the checklists that he has seen allow for waivers. He asked if this checklist should list every possible item. Perhaps there are other municipalities with special conditions that need to be in the checklist; there are additional items that could be added.

Mr. Fehrenbach stated that, under the MLUL, the municipality may require extra information from a developer. He felt that the checklist is an absolute minimum and that additional items may be added. Chairman Kirkpatrick ascertained that Mr. Fehrenbach wants language inserted that says that additional items may be added but not changed by the municipality, according to the MLUL. Dr. Olenik said that the Board might as well discard the checklist if it is used as a minimum.

Mr. Reinhart stated that the real issue with this checklist is "when does the clock start?" The checklist does not preclude a municipality from requiring a traffic impact statement for an application to be approved. Mr. Fehrenbach said that the governing body, by adopting an ordinance, may require certain items to determine completeness. Mr. Connolly asked what types of things this would include. Examples given were traffic impact analyses, environmental impact analyses, economic analyses. Mr. Connolly said that, if a variance is being sought, it is a different issue. Dr. Moskowitz pointed out that a town like Harding Township might say that, due to its unique nature, all applications for this community shall be

accompanied by an environmental impact analysis. Mr. Connolly said that no one is saying that the planning board will not take environmental factors into account. He added that the basic duty is on the planning board, but it will end up being required of the developer. Ms. Amy Fenwick Frank said that the Committee had decided that items such as shade trees or historic preservation could be added by the municipality.

Mr. Reinhart simplified the discussion by saying that the municipality is looking to make a decision and the developer is looking for approval. The municipality has already made a decision about the location. If a waiver is sought by the applicant, then such further information can be requested by the municipality. Mr. Fehrenbach said that the clock does not start until after the application is complete. If all that is supplied to the applicant is this checklist, he may be misled because there may be additional standards or requirements through municipal ordinance he does not know anything about.

Mr. Connolly said that this is a policy question and possibly a legal issue as well. He felt that the Board should vote on this when all members are present. He recalled that Deputy Attorney General Keith Costill had felt that it was a minimum/maximum issue. Dr. Moskowitz made a motion, which was seconded by Mr. Fiorletti, to table this issue until all members were present. Chairman Kirkpatrick noted that the Board has had this item on its agenda for quite some time. He felt that the checklist is ready for comment by the public. He said that the Board can wrestle with this policy issue while comments are coming in. Chairman Kirkpatrick stated that he would like to consider publishing this in the New Jersey Register. The vote was called for and all were in favor of tabling the issue of whether items could be added to the checklist until all Board members were present. Mr. Fehrenbach said the technical issues should be dealt with. He also felt that the legal issue should be cleared up as well, but did not think everybody agreed with him.

Mr. Reinhart suggested that item #8 should be relocated to the cover sheet. He also recommended that #11 be changed to read: "Where applicable, proposed monumentation as specified by the Map Filing Law". He made one more correction to #31, stating that this is not a checklist item. Mr. Reinhart suggested striking the language after the comma so that it reads: "A letter containing a list of all items to be covered by a performance guarantee, with quantities/cost of each item and the total cost of all items". Mr. Fehrenbach suggested that the comma could remain and the language following it could be changed. Chairman Kirkpatrick said that all improvements to be installed are the items that are

going to be covered by the performance guarantee. Mr. Connolly suggested amending the language in #31 to read: "A letter containing a list of all items not installed or completed and to be covered by a performance guarantee, with quantities/cost of each item and the total cost of all items". All were in favor of this language. It was also recommended to take out #32. All Board members were in favor of this change. Mr. Reinhart referred to #54 on page 10. It was decided to leave this one alone. He then referred to #60, correcting the language as follows: "Finished spot elevations at all building corners and finished first-floor elevations of proposed buildings".

A motion was made by Mr. Fiorletti, which was seconded by Dr. Olenik, to publish the Model Application Form and Checklist in the New Jersey Register for public comment. Mr. Doyle asked if there were a number of municipal comments on the original form. He said that a lot of municipalities do not know what is going on. Mr. Connolly replied that the form and checklist can be sent to the planning boards so that they do not have to read the New Jersey Register. The statements accompanying the publication will describe the policy issue still under discussion. The vote was called for and all were in favor except Mr. Fehrenbach, who was opposed.

B. Streets and Parking Standards Committee:

Mr. Fiorletti reported that the Streets and Parking Standards Committee members decided to see how the streets and parking standards work before making any further changes. Mr. Connolly disagreed with this. He said that all the other committees are revising their sections of the Residential Site Improvement Standards (RSIS) according to their lists of items to be studied. Mr. Fiorletti said that the Committee would consider changes within the year.

C. Water Supply and Sanitary Sewers Standards Committee:

Dr. Olenik reported that the Water Supply and Sanitary Sewers Standards Committee will be holding a meeting to discuss additional information received from industry.

D. Storm Water Management Standards Committee:

Chairman Kirkpatrick reported that some draft changes have been made. The Storm Water Management Standards Committee will have something to propose at the meeting of annual review.

OLD BUSINESS

- A. Model Application Form and Checklist:
This item was discussed under the Model Application Form Committee report.
- B. Report on Status of Special Area Standards Applications:
 - 1. Stafford Township, Ocean County --
Mr. Connolly reported that Stafford Township has submitted a draft ordinance recently, mentioning that it was in the meeting packet.
 - 2. Harding Township, Morris County --
Mr. Connolly stated that Harding Township was sent a reformatted document to consider on stormwater. Harding has requested that the Board not take any action yet on draft Resolution #97-1, Special Area Standards for Private Roads in Harding Township, Morris County.

NEW BUSINESS

- A. Application for Special Area Standards from the City of Long Branch, Monmouth County:
The special area standards application received from the City of Long Branch was briefly discussed. Mr. Connolly stated that this application is small and specific. He noted that the City is seeking to allow no more than one parking space per dwelling unit. Because of the way the standards work, to set a maximum requires a special area standard. He said that he did not think that there is necessarily anything wrong the Board has done right now. Mr. Connolly explained that the standards can be improved upon and that is what the Board is doing. The special area standards application was referred to the Streets and Parking Standards Committee.
- B. Discussion of Suggested Procedure for Responding to Applications for Special Area Standards and
- C. Petition for a Rule on Special Area Standards from the New Jersey Builders Association:
The New Jersey Builders Association (NJBA) has petitioned for a rule on the procedures to be followed in regard to special area standards. The Commissioner of the Department of Community Affairs (DCA) has referred this to the Board. The petition has been published in the New Jersey Register. Mr. Connolly referred to his August 15th memorandum to the Board outlining a suggested process for dealing with these applications.

A decision will be made to determine whether a rule is necessary. If it is decided that a rule is required, then a proposed amendment is drafted by the Board.

Mr. Thomas Carroll of Hill Wallack and a member of the NJBA stated that the Board should not make a rule yet until it is decided by the Court that the special area standards are not ultra vires, and that procedures should be developed. He encouraged the Board to seek the advice of the Deputy Attorney General. He said that the special area standards regulations are not likely to be sustained on appeal and that the Board has already granted some special area standards, which will just create confusion.

Mr. Reinhart referred to a letter he wrote to the Chairman, dated October 10th, regarding Procedural Rules. His concern was that the Board does not have rules on how to deal with special area standards. Mr. Connolly agreed that special area standards have no procedural rules. He asked whether the Board really needs to make an administrative rule for this. Mr. Reinhart felt that the Board needs to work through the administrative rule process with this issue. He suggested the Board take comments on this today and discuss it at the next meeting.

Mr. Fehrenbach said that all of this seems to border on the concept of rulemaking. He was not sure whether the Board is allowed to do this. Chairman Kirkpatrick suggested just making it part of the Board's by-laws or policy. Mr. Connolly said that, if the special area standards were struck down by the courts, the Board would just make every application for special area standards a change to the standards.

Dr. Moskowitz asked whether the process prohibits a special committee being formed to look into the issue. Mr. Connolly responded that the thought behind his memorandum of August 15 was that the Board could refer this issue to a committee. When the Board receives an application, a brief summary of it could be placed in the New Jersey Register. If anyone wishes to see the entire application, it could be requested. Mr. Fiorletti asked if it is necessary for a municipality to submit a resolution to the Board, along with an application. Mr. Connolly told him that those requirements are already in the rules; an application has to be authorized by the governing body. He further recommended putting the approval in the form of a resolution by the Board consistent with the standards, so that it could easily be incorporated into the standards. Chairman Kirkpatrick said that he thought that the special area had to be created by the municipality first; and then tell how it affects life safety and health. Dr.

Moskowitz said that the Board is going to base a decision on the informal hearing. Referring to his memorandum, Mr. Connolly said that (1) there should be a first, informal hearing for the applicant and the public to comment, and (2) the Board will indicate what it is inclined to approve and will prepare a draft decision. Mr. Reinhart said that the applicant, in many cases, will be the municipality. Dr. Moskowitz suggested that the first application so processed could be sent out as a guide on how it should look. He said he sees problems with what he has heard thus far.

Chairman Kirkpatrick noted that the Board has been struggling with this issue. Since committees have worked well with the Board thus far on issues that require special focus, he stated that he would like to appoint a committee to deal with procedures to be followed for special area standards applications and will make recommendations to the Board. A show of hands among the Board members indicated interest in membership and the newly-formed committee was established as follows:

Procedures for Special Area Standards Committee

William Connolly
 Frank Doyle
 Robert Kirkpatrick
 Harvey Moskowitz
 Peter Reinhart

Mr. Carroll stated that a committee to consider this issue is good, but he felt that it should go beyond that. He said that the NJBA supports the regulations, except for the special area standards. The appeal is scheduled for oral argument on November 19th. The NJBA will let the Board know of the substance. He understood that Mr. Connolly feels that special area standards should be sustained. Mr. Carroll pointed out, however, that the enabling legislation calls for uniform statewide standards. He urged the Board, before it proceeds with this Committee, to wait a month or two to see if the Court says the Board can do this. He suggested that the procedures should be done by way of regulations. This way, people can see it in the New Jersey Register and can comment on it. Dr. Moskowitz felt that the Board should move ahead. Chairman Kirkpatrick agreed with him.

D. Maintenance of Stormwater Management Facilities:

Chairman Kirkpatrick stated that he thought that the intent was that maintenance of the treatment train was the responsibility of the municipality and was not forced on the owner of the property across which the easement runs. He commented that he was aware that there are

some differing points of view on this issue among the Board members, namely from Ms. McGowan. Mr. Fehrenbach said that his last understanding of the maintenance and management of systems is the same as is stated in Ms. McGowan's memorandum of October 10th in today's meeting packet. He told the Board members that he had never heard of the term "treatment train." He felt that, as it is laid out in the standards, it is not the responsibility of the municipality and if the State mandates it, the State should pay for it. Mr. Fehrenbach stated that, prior to this interpretation, municipalities have the option of taking responsibility to maintain all of the stormwater management facilities or requiring the homeowners associations to be responsible. He said that he is not aware of anything in this statute that allows the Board to require this of the municipalities or to say who does it. He asked about the status of the comment and response in the January 6th New Jersey Register. Mr. Connolly responded that the comment and response document reflects the DCA's interpretation. Chairman Kirkpatrick said that the Storm Water Management Standards Committee would come up with proposed language and get it back for Board consideration as soon as possible.

E. Clarifications:

1. Minor Subdivisions --
2. Rural Streets and Lanes --

Mr. Connolly referred to the two clarifications in the meeting packet which were drafted to address some confusion experienced by users of the RSIS. He explained that he receives many letters that ask similar types of questions and seek guidance on issues which need clarification. He said that he has been responding to these requests with his interpretations, but felt that the Board should address these issues in some way. Dr. Moskowitz added that there are going to be legitimate questions coming in that he feels deserve clarification. Mr. Connolly proposed sending any such clarifications the Board approves to all planning boards and to keep the clarifications simple. Chairman Kirkpatrick asked the Board members if they would like to see all clarifications and approve them before they are mailed out. Dr. Moskowitz said that he would like to see them first. Mr. Connolly felt that he could do this and, if any dissenting opinions arise, they could be added to the Board's agenda for discussion. He said that he would continue to respond to letters he receives in this manner. It was decided that all clarifications would be mailed to the Board members for their review and to give them two weeks to respond with any concerns. After that time, the DCA will mail the clarifications out to all

municipal planning boards, zoning boards of adjustment, municipal engineers, and municipal attorneys.

F. County Site Improvement Standards:

Chairman Kirkpatrick told the Board members that he had asked for this agenda item. He stated that a situation now exists where a county is proposing stormwater rules contrary to the standards. He explained that an application was submitted according to the RSIS which affects a county road. Can the county request that the calculations be done all over again? Chairman Kirkpatrick said that the Board has not resolved the issue of multiplicity of standards in this area, where there is an overlap into a county's area of jurisdiction.

Chairman Kirkpatrick pointed out that Mr. Fiorletti is the Board's representative of the New Jersey State Association of County Engineers, Inc. and that perhaps he could discuss this issue at its next meeting. Mr. Fiorletti replied that he does not know if his organization is doing anything about this situation or not. He said he could get a survey done among the county engineers. They could make a recommendation on how to deal with these issues. Mr. Connolly suggested that perhaps it could be resolved on a voluntary basis. Chairman Kirkpatrick said that issues relating to stormwater management have the major impact in this area. Mr. Connolly asked Mr. Fiorletti if he could get this issue added to the Association's next meeting agenda for discussion. Mr. Fiorletti responded that he would talk to the Association's president and arrange it. Mr. Doyle commented that this is not a big issue in his municipality, but the county does get involved.

Referring to the de minimis exception notices included in the meeting packet, Mr. Reinhart suggested adding the list of de minimis exceptions reported to the agenda of future meetings. Chairman Kirkpatrick said that the Board could report on what has been received in this respect at year's end.

Mr. Fehrenbach noted that there is a letter from Ms. Susan Kimball requesting postponement on consideration of Resolution #97-1.

PUBLIC COMMENTS

Ms. Joanne Harkins, Director of Land Use and Planning at the New Jersey Builders Association, told the Board members that she monitors the activity of other State agencies that have an impact on NJBA interests. Based on this experience, she said that she would like to make a few administrative suggestions. She noted that all of

the other agencies she has contact with send out their agendas along with their meeting notices, so that all interested parties are fully informed about the meeting and are aware of what will be discussed. Ms. Harkins further suggested that the agenda items be marked in some way to show whether they are items that the Board will be acting upon. She stated that other State agencies make information available to the public at their meetings, such as major documents that are being discussed, resolutions, etc., so that the public can follow the Board's discussion. Chairman Kirkpatrick told her that the Board does not generally finalize the agenda until very close to the meeting. He felt that offering an information packet would be okay, as long as it is public information.

Ms. Mimi Upmeyer of the Association of New Jersey Environmental Commissions echoed Ms. Harkins' request for information and agendas. She asked for clarification on the comment period for the NJBA petition. She was told that comments would still be accepted. Ms. Upmeyer asked whose responsibility it is to put the application together for the Board's approval. She felt that it might be an onerous burden in itself.

Mr. Joseph Skupien of Somerset County Engineering stated that the condo law requiring that towns take responsibility for maintenance of infrastructure specifically excludes stormwater management.

ADJOURNMENT

Chairman Kirkpatrick adjourned the meeting at 11:34 a.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Tuesday, December 16, 1997 in the first floor conference room of Building 3B at 3131 Princeton Pike in Lawrenceville, New Jersey.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of June 30, 1997

LOCATION

Conference Room 134
New Jersey Department of Community Affairs (William Ashby Building)
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Robert Kirkpatrick, Chair
William Connolly, Vice-Chair
Charles Richman (DCA Commissioner's designee)
Frank Doyle
Armand Fiorletti
Leslie McGowan
Harvey Moskowitz
Thomas Olenik
Joseph Wiseman
Winfield Ziegenfuss

DCA Staff:

Keith Costill, Deputy Attorney General
Cynthia Wilk, Assistant Director, Division of Codes and Standards
Farid Ahmad
Amy Fenwick-Frank
Mary Ellen Handelman
Andrew Jaskolka
John Lago
Mitchell Malec
Emily Templeton
Michael Ticktin

Guests:

John Maczuga	Township of Stafford
Susan Kimball	Township of Harding
Sally Dudley	Township of Harding
Robert Fox	Township of Harding
Rich Wiedmann	Township of Harding
Paul J. Shives	Township of Stafford
John Spodofora	Township of Stafford
Martha Kremer	Township of Stafford

Carlos Rodriguez	Office of State Planning, New Jersey Department of
the Treasury	
Joanne Harkins	New Jersey Builders Association
Ann Bowman	Morris County Planning Board
Andrew Witkowski	Morris County Planning Board
Ken Hetrich	Township of Chatham
Stephen H. Shaw, Esq.	Township of Chatham
Chuck Horner	New Jersey Pinelands Commission
Liz Rosenblatt	New Jersey Department of Environmental
Protection	
Steve Jacobus	New Jersey Department of Environmental
Protection	
Hunter Birckhead	State Soil Conservation Committee, New Jersey
Department of Agriculture	

CALL TO ORDER

Mr. Robert Kirkpatrick, Jr., Chair of the New Jersey Site Improvement Advisory Board, called the meeting to order at 9:33 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 date, time, 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 Atlantic City Press, and The Daily Record of Morris County.

APPROVAL OF MINUTES

Chairman Kirkpatrick asked if there were any corrections to the minutes of the October 21, 1996 meeting. There were none. Mr. Armand Fiorletti made a motion, which was seconded by Mr. Joseph Wiseman, to approve the minutes; the vote was unanimous.

Chairman Kirkpatrick asked if there were any corrections to the minutes of the November 12th meeting. There were none. Mr. Wiseman made a motion, which was seconded by Mr. Winfield Ziegenfuss, Jr., to approve the minutes. All were in favor except Mr. Fiorletti, who abstained due to his absence from that meeting.

APPLICATION FOR SPECIAL AREA STANDARDS FROM STAFFORD TOWNSHIP, OCEAN COUNTY

Chairman Kirkpatrick explained the provisions for special area standards, which are incorporated in the Residential Site

Improvement Standards (RSIS). He asked if there were any procedural comments before the Board began the hearings.

Dr. Harvey Moskowitz said that he would like to talk about the possibility of establishing a committee of the Board that would meet to discuss special area standards applications prior to Board meetings to expedite action on applications. Chairman Kirkpatrick reminded him that the requirement in the RSIS for special area standards is to have an informal hearing. Mr. William Connolly, Vice-Chair of the Board, added that it would make sense to have a committee review applications if a significant volume is received. Dr. Moskowitz agreed to see how many applications come in before requesting such a change in procedure.

Mr. Connolly stated that Department of Community Affairs (DCA) staff would review the applications to make sure they are complete. He felt that staff can assist the Board the way professionals help local planning boards.

Mr. Fiorletti pointed out that there is opposition in Chatham Township over its application for special area standards. Mr. Connolly told him that this is a public meeting, where all views are heard. Chairman Kirkpatrick referred to N.J.A.C. 5:21-3.5(k)1-4 on page 26, which details the criteria that must be met for special area standards applications.

Mr. Keith Costill, Deputy Attorney General to the Board, noted that the Board should consider whether to take sworn testimony. He said that applicants should be aware that the burden is on them to establish the need for the special area standards they are applying for. Dr. Moskowitz felt that it was not necessary to have individuals testify under oath. Mr. Connolly agreed.

Dr. Thomas Olenik suggested that any stormwater management applications should be cleared through the Storm Water Management Standards Committee. Mr. Connolly responded that, if workload demands the Board refer these to the committees, then that is what will be done. He added that there are only two applications to deal with today. Committee work needs to be in the form of analysis, not formal review. Dr. Olenik said that there are a lot of things in Stafford Township's application that the Board needs to think about. Chairman Kirkpatrick felt that, when applications are received, it should be determined whether they meet the criteria for special area standards. Otherwise, he would like the applications to go to the appropriate committees. Mr. Connolly added that, whether this is necessary or not may differ from application to application. Mr. Frank Doyle said that there is enough information in these requests so that the Board can look at them through the committees and hear their recommendations. Chairman Kirkpatrick stated that the Board can decide whether it wants the committees to discuss these applications after the presentations are heard.

Mr. John Maczuga, Township Planner for Stafford Township, introduced the representatives of his Township in attendance: Mr. John Spodofora, Councilman; Mr. Paul Shives, Township Administrator; and Ms. Martha Kremer, Director of Community Development.

Mr. Maczuga began his presentation. He told the Board members that Stafford Township encompasses 47 square miles in southern Ocean County. He gave a description of the area. Mr. Maczuga said that the Township is rapidly growing and has become a regional center. Since 1990, the population has increased by one-third. The Township has an application pending as a regional center with the New Jersey State Planning Commission. Stafford Township is looked upon as an environmentally sensitive area by the State and Federal Government. Thirty-four percent of the Township is in the Pinelands area and 66 percent falls under the Coastal Area Facilities Review Act (CAFRA). Stafford is in the Atlantic Coastal Plain, has sandy soils, and is an area prone to salt-water intrusion.

In 1987, the Township set about developing a set of stormwater management standards. Stafford Township has well-head protection zoning in place to protect groundwater supplies.

In terms of the required criteria for special area standards on page 26 in the RSIS, Mr. Maczuga felt that the Township's stormwater ordinance is consistent with the intent of the Site Improvement Act. The special area standards proposed by the Township promote infiltration as a means to manage runoff in an effort to reduce nonpoint source pollution. He stated that he thinks Stafford's

standards are superior in terms of groundwater protection and how stormwater runoff is handled. The Township wants to promote closed systems for recharge and to use open systems to backup the infiltration systems. The Township's stormwater management system has been instrumental in its effort to reduce pollution and ensure its three freshwater lakes are open for recreational use. He felt that this system is cost effective and practical. The system also has been widely recognized for its effectiveness.

The second criterion specified for special area standards is that they be reasonable and not unduly burdensome. Mr. Maczuga stated that, when the land costs needed for detention basins are taken into consideration, the requirements of Stafford's standards are better than those in the RSIS.

Mr. Maczuga maintained that the proposed special area standards for Stafford meet the public health and safety criterion in the RSIS, and that Stafford Township believes that its standards are also superior in this regard.

For the fourth criterion, that the special area standards take into account existing infrastructure and surrounding development possibility, Mr. Maczuga said that the Township has been using these standards and does not believe that this is a significant criterion that is either met or not met.

Dr. Moskowitz asked if there are any other municipalities with the same soil characteristics as Stafford Township's and whether they have implemented the same standards. Mr. Maczuga replied that there are many towns that have the same characteristics. However, many of these areas are already developed, such as Toms River. They are not under the same growth pressures and out in the forefront trying to protect groundwater. Dr. Olenik asked if any municipalities have followed Stafford's ordinance. Councilman Spodofora responded that many municipalities have requested Stafford's ordinance, somewhere in the hundreds. Requests even come in from outside of New Jersey. Disney World has requested Stafford's ordinance. He added that the interest in Stafford's system is worldwide.

In response to a question from Dr. Olenik, Councilman Spodofora stated that Stafford Township's stormwater management system was recently studied by a team from the University of Alabama with a \$275,000 grant from the Environmental Protection Agency (EPA). The final results of the study are due to be published soon. He said that he expects that they will be favorable because the EPA presented a first-place national award for excellence to the Township for the effort it has made to reduce pollution.

Mr. Wiseman asked if the Township's infiltration ordinance required retrofitting of existing residential developments. Councilman Spodofora said there was little retrofitting. He said that the infiltration system is an important part of the Township's effort to clean up its lakes and that this effort has shown dramatic improvements.

Mr. Wiseman asked if there is a cost analysis on residential use. Councilman Spodofora said "no," but added that basins are not very well received by the community. Developers would rather have the extra lots. He also noted that basins are difficult to maintain, and they are prone to flooding because the water table is high and because of the proximity of the bay.

DCA Assistant Commissioner Charles Richman asked if there is an ongoing quality check on the system. Councilman Spodofora said "yes," there is. He added that the systems must be, and are, regularly maintained.

Dr. Moskowitz asked a question, in response to which Mr. Maczuga read a letter from the New Jersey Pinelands Commission. Mr. Maczuga said that the Commission supports Stafford's stormwater management techniques. Councilman Spodofora added that conditional approval came from CAFRA.

Chairman Kirkpatrick pointed to the language "whenever practicable," asking who determines this. Mr. Maczuga replied that it is the Planning Board.

Councilman Spodofora gave his presentation (see Attachment A).

Mr. Connolly asked how the problem of silting up of infiltration tubes is dealt with. Councilman Spodofora said that the systems have been in place over 10 years in town with no problems. He pointed to a diagram of the facilities and referred to design requirements that help prevent silting. He said that streets and parking lots are not being flooded. Mr. Connolly asked how they know they do not have a failure -- by opening the tubes up? Councilman Spodofora replied "yes," they have been opened up. They have been tested with more than a 100-year-storm amount of water pumped by fire trucks. He said they are isolating the debris in these catch basins. Mr. Connolly asked about the rock fill in the infiltration systems. (He noted that the pipes did not have the silt build up.) Councilman Spodofora told him about a few design changes made to the older system that have improved performance; e.g., that the older systems only had holes on the bottom and the pipes were much smaller. Mr. Connolly asked him what storm they retain. A 100-year storm was Councilman Spodofora's answer. Mr. Connolly asked if they all retain a 100-year storm. Councilman Spodofora responded that the site determines the design.

Mr. Fiorletti said that Stafford Township's land-use development ordinance deals with driveways, but not with curbs. Mr. Maczuga replied that it does deal with curbs, but in a different section. Curbs are required on all streets in every development. Mr. Fiorletti asked if basements are affected by water backing up. Councilman Spodofora told him that some houses have basements and, since the stormwater management system has been installed, basements have been dryer. Mr. Fiorletti asked if curbs are part of Stafford's stormwater management plan. Mr. Maczuga told him that the Township has come into consistency with the RSIS.

Mr. Ziegenfuss referred to vacuum trucks and asked whether these systems are the maintenance responsibility of Stafford Township. Mr. Maczuga replied "yes." Councilman Spodofora added that the residential areas are taken care of by the municipality.

Mr. Doyle asked if he was correct in saying that Stafford's stormwater management would not work with the RSIS. Councilman Spodofora said that this is right, but that the Township would accept all of the other statewide residential site improvement standards. The proposed special area standard would seek variation from only the stormwater standards.

Mr. Ziegenfuss asked whether the Township had to modify its street maintenance program in response to the infiltration systems. Councilman Spodofora said that the underground systems are below the frost line, but that the streets are swept during the winter months.

Referring to the issue of water quality, Mr. Connolly asked if there has been any testing of the groundwater to see if it is being contaminated. Councilman Spodofora responded that the University of Alabama study looked at this. He explained that the municipality is taking any contaminants and isolating them at the basins where they can be pulled out, so they do not go through to the lakes, etc. Mr. Connolly asked him if he has test results that he can give the Board. He stated that he is interested more in performance than in theory. Councilman Spodofora told him that this data is included in the study done by the University of Alabama, which has not yet been released.

Mr. Connolly asked about the scale and scope of retrofit improvements. Mr. Maczuga replied that downstream adjoining properties were required to address runoff as they developed. Councilman Spodofora added that Stafford Township's stormwater ordinance is one part of a comprehensive effort to improve water quality. If the Township is not allowed to continue this approach, it will lose an important piece to an effort that includes nonstructural and natural approaches to stormwater and water quality management. Mr. Connolly questioned how dramatic improvements had been achieved using new development to solve the problems of older development. Mr. Maczuga replied that it helped, coupled with the watershed management plan.

Mr. Connolly noted that the special area standards proposed by the Township include a lot of detail on pipe material installation and other technical requirements that are already in the RSIS. He suggested that the Township special area standards should be written in a way to permit infiltration systems, but that it should defer as much as possible to the statewide RSIS for runoff calculations, pipe material and

installation, and other technical standards.

Chairman Kirkpatrick stated that, as a coastal municipality with certain criteria, the Board would like to make sure that the same standards could be applied to neighboring municipalities. He would like to refer this application to the Storm Water Management Standards Committee to see whether these standards are sustainable for like areas. Mr. Maczuga said that he would like to provide additional information in a letter for Mr. Connolly. Chairman Kirkpatrick said that he would like the minutes of this meeting put together as soon as possible. *A motion was made by Mr. Doyle, which was seconded by Mr. Wiseman, to give this application to the Storm Water Management Standards Committee to make a recommendation to the Board.* Mr. Connolly told the Stafford Township representatives that the Board would appreciate any thoughts they might have that would make this approach applicable to other municipalities with conditions similar to Stafford's. Dr. Moskowitz agreed. Mr. Ziegenfuss stated that the Committee members need to see information from Stafford Township as far as materials, design, and how discharge is handled. *The vote was called for and all were in favor.* It was announced that the applicant is welcome to be present at the Committee meeting.

Recess: 11:06 a.m.

Reconvened: 11:22 a.m.

APPLICATION FOR SPECIAL AREA STANDARDS FROM HARDING TOWNSHIP, MORRIS COUNTY

The Honorable Sally Dudley, Mayor of Harding Township, introduced the representatives of the Township in attendance: Mr. Robert Fox, Township Engineer; Ms. Susan Kimball, Township Planner; and Mr. Rich Wiedmann, Township Administrator. Mayor Dudley stated that Harding Township is making application for special area standards for two issues: the road standards and stormwater management in the Great Swamp Watershed.

She gave the Board members a description of Harding, some background and history of the Watershed, and the formation of the Ten Towns Great Swamp Watershed Committee to manage and protect this environmentally sensitive area (see Attachment B). She said that Harding Township is the first of the ten towns to adopt the model ordinance developed by the Ten Towns Great Swamp Watershed Committee.

Dr. Moskowitz asked her who signed the intermunicipal agreement and if the towns have endorsed the management plan. Mayor Dudley responded that they are in the process of endorsing the plan. The Ten Towns Great Swamp Watershed Committee is taking the plan around to the public in each town and getting their endorsement.

Ms. Leslie McGowan asked what portion of the municipality is not included in the application. Mayor Dudley told her only the northwest corner, which is covered by the Whippany Watershed. Ms. Kimball explained that private water and septic systems are what the residents use. This rural Township was established in the 1700s. Its settlement patterns still reflect colonial patterns. In subdivisions of four lots or less, the road widths are 12 feet, unpaved. In subdivisions of five or more lots, the road widths are 16 feet and the roads are paved. She said that Harding's roadway standards cost less than the RSIS would. Because there is so much of the Township that could still be developed, it is important that these standards remain the same. The subdivision standards refer to the RSIS whenever possible.

Mr. Wiseman asked what the dimensions of graded shoulders are. Mr. Fox said that they are two feet on each side. Ms. Kimball pointed out that a critical feature is the old trees along the roadways. She added that right-of-way widths conform to the State standards. Dr. Moskowitz said that some pictures for the Board members to look at could help with understanding the character of the large trees. Ms. Kimball agreed to supply the Board with these.

Dr. Moskowitz asked if the fire department would have an access problem with four houses on a 12-foot gravel road. Ms. Kimball responded that these roads are maintained by the homeowners associations. Dr. Moskowitz asked if the volunteer fire departments have voiced any concern. Mr. Fox replied "no." All of the roads that have been built for residential subdivisions have been private roads with relatively narrow standards. The fire department accepts the road widths. Mayor Dudley added that the water supply is usually the concern.

Regarding road widths, Mr. Fox said that the RSIS require 18 feet; Harding's special area standards would require roads as narrow as 16 feet. This design is based on a 30-mile-an-hour speed. He asked the Board to allow Harding Township to go to 30 miles per hour for the design speed.

Regarding paving of steep slopes, Mr. Wiseman asked if there is any curbing on them. Mr. Fox said that there is none. Regarding the stormwater management ordinance, he stated that the objectives set forth by the New Jersey Department of Environmental Protection in 1993 allowed for no net increase in the amount of runoff or pollutants going into the Swamp. The Township Engineer also took issue with the runoff calculations allowed under the RSIS. The Township's special area standards would require designs based only on the Soil Conservation Service methods and would not permit calculations based on the Rational Method. Harding's proposed special area standards also would use runoff curve numbers derived by Somerset County.

In terms of stream corridor protection, Mr. Fox told the Board members that providing a buffer of undisturbed vegetation does a great deal in improving the quality of streams. No commercial parking lots or underground storage tanks within the next 50 feet are allowed.

The special area standards proposed by Harding Township also differ slightly from the RSIS in terms of the adjustment factors used to compare pre- and post-development flows. The special area standards also emphasize infiltration systems and the use of drywell systems for roof drains. Mr. Fox said that the RSIS does relatively little in terms of water quality. Harding's ordinance addresses nonpoint source pollution.

Chairman Kirkpatrick asked how the special area standards proposed by Harding differ from the model ordinance developed by the Ten Towns Great Swamp Watershed Committee. Mr. Fox told him that they have embellished the Great Swamp ordinance and have made it more specific to Harding.

Dr. Moskowitz asked how high the Township's water table is. Mr. Fox told him that it differs from location to location. He said that the municipality requires dry wells to all additions over 400 square feet.

Mr. Doyle asked about the State Development and Redevelopment Plan designation. It was noted that everything in the developable part of the Great Swamp Watershed is in the Planning Area 5 category.

Regarding water quality, Mr. Connolly asked what specifically Harding proposes. Mr. Fox referred to the chart near the bottom of page 14 of Harding Township's ordinance. He did not think that the RSIS require the standards that Harding's ordinance does. Mr. Connolly asked what sort of informational studies there are that demonstrate that the conventional techniques will not work. He asked if any sort of analysis has been done on this. Mr. Fox told him that, when the Swamp floods, it does so for days, not hours. The RSIS techniques are not going to handle this type of situation. The water is held too long there. To another question posed by Mr. Connolly, Mr. Fox stated that, in a wilderness area, the channels cannot be improved. There are severe restrictions on what can be done in a wilderness area. As an example, he told of a rainfall of nine inches in 13 hours last October 17th. It was the worst flood the Township has had in a long time. He commented that 3500 acres are the refuge. Mr. Connolly asked if the analysis that rate reduction cannot handle drainage applies to the entire Swamp. Mayor Dudley replied that the Swamp is very flat. Mr. Connolly asked if infiltration systems work

as far as achieving no net increase in volume, given the local geology. He also asked if they varied by soil type. Mr. Fox told him "yes," they do and in different types of soils. Ms. Kimball added that there would be an increase in cost using the RSIS instead of their standards.

Regarding the special area designation for the Great Swamp Watershed, Dr. Moskowitz asked if all of the communities of the Great Swamp area should come in on a unified application. Mayor Dudley said that, in the best of all possible worlds, he is right. However, no other town has as much of the Great Swamp area in its municipality as Harding does. The Township cannot wait for agreement by all ten towns.

Mr. Connolly noted that he also received a letter today from Mr. Samuel R. Race, Executive Secretary of the New Jersey Department of Agriculture's State Soil Conservation Committee dealing with the Soil Erosion and Sediment Control Act and Harding Township. He handed this out to the Board members.

Ms. Kimball suggested that the Board approve the model ordinance and ask the Great Swamp communities to come in and say how theirs differ from it. Chairman Kirkpatrick stated that the Board will review the Harding ordinance with the assumption that the submissions from the other Great Swamp towns will not vary significantly.

Mr. Ziegenfuss made a motion, which was seconded by Mr. Doyle, to refer Harding Township's request for special area standards to the Streets and Parking Standards Committee for modifications regarding reduced roadway widths, and also to the Storm Water Management Standards Committee. Mr. Connolly said that the road application is the sort of application that the Board expected. It has some peripheral importance to stormwater. There is no reason to not consider the streets section today because it involves design issues and is consistent with the RSIS. Mr. Ziegenfuss asked if the Board could act separately on the special area standards for road widths. Mr. Connolly suggested that the Board could approve it in part. Once the Board does that, DCA staff can prepare a resolution that the Board can memorialize. Mr. Wiseman pointed out that the Chair of the Streets and Parking Standards Committee has left the meeting for another appointment, and perhaps the Board should wait. Mayor Dudley said that the Township does have a 300-acre subdivision that it is dealing with right now. Chairman Kirkpatrick outlined the issue as being to separate or not to separate. *Mr. Ziegenfuss withdrew his motion and made another motion to separate the application so that separate actions may be taken on the roadway section and the stormwater section; the roadway section will be voted on today and the stormwater section will be referred to the Storm Water Management Standards Committee.* *Mr. Doyle seconded the motion and the vote was unanimous.*

Mr. Connolly then made a motion to approve all road specifications, as requested; Dr. Moskowitz seconded the motion. Chairman Kirkpatrick said that he would want this to be reviewed by the Streets and Parking Standards Committee. Regarding design speed, Mr. Connolly stated that this request is okay. On a road such as this, to insist on the lower design speed would create a safety hazard. Mr. Fox added that it is very significant to take into consideration the development density. Chairman Kirkpatrick said that DAG Costill will draft a resolution for the next Board meeting. Mr. Ziegenfuss ascertained that a vote for approval now is conditional upon the review of the document for the next Board meeting. *The vote was called for to approve all three parts of Harding's special area standards application as it pertains to streets: the width, the design speed, and the use of unpaved roads. The motion was carried with six yeas and two nays (Kirkpatrick, Wiseman).*

APPLICATION FOR SPECIAL AREA STANDARDS FROM CHATHAM TOWNSHIP, MORRIS COUNTY

Mr. Stephen Shaw, Special Counsel to Chatham Township, came forward to state that the Township of Chatham requests that the hearing on its application for special area standards approval for the Great Swamp Watershed Overlay District Storm Water Management Ordinance be adjourned until the next Board meeting. This request was granted.

Mr. Shaw asked if the Board is supposed to be taping today's hearing; he felt all such informal hearings by the Board should be recorded verbatim on tape. Chairman Kirkpatrick responded that the Board relies heavily on Ms. Mary Ellen Handelman, Secretary to the

Board, and DCA staff to accurately record the minutes of meetings. Dr. Moskowitz told him he may bring in a court reporter. DAG Costill stated that the Board has no obligation to grant a special area standard. Mr. Shaw stated that, when this Board acts on an application, whatever its decision is will be formulated in writing. He said that, if there is any differing opinion on what transpired from what is recorded in the minutes, there will be an appeal. DAG Costill told him that the application process constitutes the record.

Chairman Kirkpatrick wanted to set a date for the next Board meeting. He said that the Storm Water Management Standards Committee should meet in two weeks and the next Board meeting should occur in 30 days. He requested that the Board members give Ms. Handelman their vacation schedules so that these meetings may be set. Chairman Kirkpatrick referred to the summary of the items to be studied by the Board. He said that this may have an impact on the next Board meeting. Mr. Connolly commented that the staff can have draft language available for the Storm Water Management Standards Committee meeting. He added that both applicants had broad policy issues and also calculation methods to consider.

Recess: 1:05 p.m.

Reconvene: 1:33 p.m.

COMMITTEE REPORTS

Model Application Form Committee:

Chairman Kirkpatrick made one comment for the Model Application Form Committee on the Local Residential Land Development Application: all questions under #7 should be worded "if yes, check here," as opposed to "if none, check here."

Streets and Parking Standards Committee:

Mr. Fiorletti reported that the Streets and Parking Standards Committee met on June 19th and that the members did not find any of the items to study of major consequence. He suggested letting the standards operate for a while and see what experience people have to see if any problems arise. Dr. Moskowitz agreed that this was the general feeling of the Committee. Chairman Kirkpatrick pointed out that the standards will be reviewed and revised next June. Mr. Connolly stated that the Board could make an adjustment sooner if it is necessary.

Water Supply and Sanitary Sewers Standards Committee:

Mr. Wiseman stated that research is being done by staff on general issues for the Water Supply and Sanitary Sewers Standards Committee.

Storm Water Management Standards Committee:

Chairman Kirkpatrick said that the Storm Water Management Standards Committee will review several changes proposed for the next version of the standards. The Committee will also consider language to add to the front part of the stormwater standards to more clearly specify the options and flexibility municipalities and design engineers have.

Chairman Kirkpatrick noted that there are some items being discussed by the Committee that may have an affect on the special area standards applications. He referred to a memorandum, dated June 23rd, regarding Clarification of Maintenance Responsibilities, Stormwater Management Systems. He explained the issue, which was an interpretation of a section in the RSIS on the maintenance of stormwater facilities. He explained his interpretation of this. Chairman Kirkpatrick stated that this language needs to be clarified and brought before the Board, but noted that Ms. McGowan had to leave and she had asked that discussion of this be held until she could be present.

DAG Costill made some general comments on when a Board member needs to recuse himself on any conflicts of interest. He said that all Board members are State officials. The Board members are voting on applications that are specific to certain municipalities. The Conflict of Interest Law, section 16, prohibits a Board member, or a member's firm, from representing any private interest before the Board. A Board member cannot be involved in, or be a representative for, any applicant for special area standards or waivers. He warned the Board members not to accept a gift from anyone who comes before the Board. The DCA has promulgated a Code of Ethics that may apply to Board members, as far as any situations that may give the appearance of a conflict of interest. DAG Costill also said that if a Board member has a relative in an elected or appointed office in a town, it would not apply. He advised Board members having any connection with an application before the Board to recuse themselves before the vote, and he invited Board members to ask him if they think there is a conflict.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

Chairman Kirkpatrick adjourned the meeting at 1:47 p.m. The next meeting of the New Jersey Site Improvement Advisory Board is scheduled for 9:30 a.m. on Tuesday, October 14, 1997 in the first floor Conference Room, Building 3B, 3131 Princeton Pike in Lawrenceville, New Jersey.

Respectfully submitted,

Mary Ellen Handelman
Secretary to the Board