

# NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

MEETING MINUTES OF JUNE 18, 2015

CONFERENCE ROOM 129  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
TRENTON, NEW JERSEY

## ATTENDANCE

### **BOARD MEMBERS:**

JOSEPH E. DOYLE, CHAIR  
VALERIE HRABAL  
J. TIMOTHY KERNAN  
RICHARD M. MASER  
THOMAS OLENIK  
EDWARD M. SMITH  
JANICE TALLEY

### **DCA STAFF:**

AMY FENWICK FRANK  
JOHN LAGO

### **GUESTS:**

DAVID FISHER	NEW JERSEY BUILDERS
ASSOCIATION	
VINCENT MAZZEI	DEPARTMENT OF ENVIRONMENTAL
PROTECTION	
JOHN SHOWLER	DEPARTMENT OF AGRICULTURE
SUSAN WEBER	DEPARTMENT OF TRANSPORTATION
GREG PERRY	MORRIS COUNTY PLANNING BOARD
JACLYN RHOADS	PINELANDS PRESERVATION ALLIANCE

## CALL TO ORDER

JOSEPH DOYLE, CHAIR OF THE SITE IMPROVEMENT ADVISORY BOARD,  
CALLED THE MEETING TO ORDER AT 10:16 A.M.

## OPEN PUBLIC MEETINGS ACT

CHAIRMAN DOYLE ANNOUNCED THAT, IN ACCORDANCE WITH THE OPEN  
PUBLIC MEETINGS ACT (P.L. 1975, CHAPTER 231), NOTICE OF THE TIME,  
DATE, AND PLACE OF THIS MEETING WAS GIVEN TO THE SECRETARY OF STATE  
OF NEW JERSEY, THE STAR-LEDGER OF NEWARK, THE ASBURY PARK PRESS,  
THE PRESS OF ATLANTIC CITY, AND THE COURIER-POST OF CAMDEN.

## APPROVAL OF MINUTES

CHAIRMAN DOYLE ASKED WHETHER THERE WERE ANY CORRECTIONS TO THE MINUTES OF THE MAY 15, 2014 MEETING. THERE WERE NONE. A MOTION TO APPROVE THE MINUTES WAS MADE BY MR. MASER AND SECONDED BY MS. TALLEY. ALL VOTED IN FAVOR WITH THE EXCEPTION OF MR. KERNAN WHO ABSTAINED.

## OLD BUSINESS

### **A. STATUS OF APPLICATION FOR SPECIAL AREA PARKING STANDARD FOR OCEAN GROVE, NEPTUNE TOWNSHIP, MONMOUTH COUNTY**

CHAIRMAN DOYLE SAID THAT HE WOULD ENTERTAIN A MOTION TO DISMISS WITHOUT PREJUDICE THE MATTER OF THE NEPTUNE TOWNSHIP SPECIAL AREA STANDARD FOR PARKING IN OCEAN GROVE. THE CHAIRMAN POINTED OUT THAT THERE COULD BE NO FURTHER ACTION ON THE PART OF THE BOARD UNTIL OR UNLESS THERE WAS SOME FURTHER ACTION BY OR RESPONSE FROM NEPTUNE TOWNSHIP. MR. MASER MADE A MOTION TO DISMISS THIS MATTER WITHOUT PREJUDICE WHICH WAS SECONDED BY MS. TALLEY. ALL WERE IN FAVOR.

### **B. DEPARTMENT OF AGRICULTURE, SOIL COMPACTION RULES**

MR. SHOWLER REVIEWED WHAT HAS TRANSPIRED WITH THE SOIL COMPACTION RULES. THE ADMINISTRATION REJECTED THE ORIGINAL PROPOSAL AND THE ISSUE WAS REMANDED BACK TO THE DEPARTMENT OF AGRICULTURE. THE DEPARTMENT RECONSTITUTED ITS ADVISORY GROUP, WHICH NOW HAS 17 PARTICIPANTS. THE LANGUAGE IN THE ACT ITSELF CALLING FOR ANY REQUIREMENTS IMPOSED TO BE "COST EFFECTIVE" HAS BECOME THE SUBJECT OF SOME DEBATE. THE BENEFIT OF ADDRESSING SOIL COMPACTION CANNOT BE QUANTIFIED AND DISAPPEARS OVER TIME. ONE GROUP IS ATTEMPTING TO ESTIMATE COSTS BASED ON DIFFERENT SCENARIOS AND ANOTHER GROUP IS ATTEMPTING TO PUT A DOLLAR FIGURE ON THE BENEFIT. AT THIS POINT, IT APPEARS THAT THE RECOMMENDATION WILL BE TO GIVE A WRITTEN LIST OF BENEFITS.

ONE OF THE DIFFICULTIES, AS DESCRIBED BY MR. SHOWLER, IS FOUND IN THE VERY CONCEPT OF SOIL HEALTH OR SOIL QUALITY. IMPROVED SOIL CONDITIONING IS AN AGRICULTURAL PHENOMENON. IT IS HARD TO TRANSLATE THAT TO TURF AREAS THAT WILL BE SUBJECT TO HUMAN TRAFFIC, VEHICULAR TRAFFIC, MOWERS. THESE AREAS ARE VERY DIFFERENT IN FORM AND FUNCTION. IT IS NOT POSSIBLE TO IMPOSE THE STANDARDS FOR SOIL HEALTH OR SOIL CONDITIONING TO A DEVELOPMENT SITE. IT WAS ALSO NOTED THAT ANY PROPOSED SOIL COMPACTION REQUIREMENTS WOULD NOT APPLY TO SITES WHICH ARE ALREADY DEVELOPED. THE IMPETUS FOR THE ENABLING LEGISLATION WAS CONCERN ABOUT RUN-OFF INTO BARNEGAT BAY, BUT THE AREAS AROUND THE BAY ARE ALREADY DEVELOPED, SO THE PROPOSED RULES WOULD HAVE NO IMPACT THERE.

IN RESPONSE TO A QUESTION FROM MR. KERNAN, MR. SHOWLER INDICATED THAT VEGETATION IS BEING CONSIDERED AS AN ALTERNATIVE. A MEADOW

(NON-MAINTAINED AREA) CREATED WITH TARGETED RESTORATION TECHNIQUES OR AN EXISTING WOODED AREA COULD LEGITIMATELY BE DEDUCTED FROM THE DRAINAGE CALCULATIONS.

CHAIRMAN DOYLE THANKED MR. SHOWLER FOR ATTENDING AND GIVING THE BOARD AN UPDATE. HE NOTED THAT THERE HAS BEEN NO CHANGE IN THE BOARD'S POSITION ON THESE RULES. MS. HRABAL CONTINUES TO MONITOR THIS INITIATIVE ON BEHALF OF THE BOARD.

## NEW BUSINESS

### **A. DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) PROPOSAL TO AMEND THE FLOOD HAZARD AREA CONTROL ACT RULES, THE COASTAL ZONE MANAGEMENT RULES AND THE STORMWATER MANAGEMENT RULES**

MR. MAZZEI BRIEFLY DESCRIBED HIGHLIGHTS OF THE PROPOSAL IN THE JUNE 1 EDITION OF THE NEW JERSEY REGISTER. HE EXPLAINED IT ADDRESSES ISSUES WITH THE ENFORCEMENT OF THE RULES, INCLUDING AREAS OF CONFLICT OR OVERLAPPING JURISDICTION WITH THE STORMWATER MANAGEMENT RULES. THE PROPOSED AMENDMENTS WOULD DELETE THE SPECIAL WATER RESOURCE PROTECTION AREAS FROM THE STORMWATER MANAGEMENT RULES AND MERGE THE REQUIREMENTS WITH THOSE FOR RIPARIAN ZONES IN THE FLOOD HAZARD AREA CONTROL ACT RULES. THIS WOULD ELIMINATE OVERLAPPING BUFFERS. THE PROPOSED AMENDMENTS ALSO REMOVE ALL REFERENCES TO ACID-PRODUCING SOIL DEPOSITS. OVER TIME, IT HAS BEEN OBSERVED THAT DISCHARGES OUTSIDE THE BUFFER ARE ERODING CHANNELS AND EXPOSING ACID SOILS. THE REQUIREMENTS APPLICABLE TO ACID-PRODUCING SOILS WOULD BE UNDER THE SOLE JURISDICTION OF THE SOIL CONSERVATION DISTRICTS. IN GENERAL, HE CHARACTERIZED THE PROPOSED RULES AS SIMPLER AND MORE FLEXIBLE.

THE PROPOSED AMENDMENTS WOULD CREATE GENERAL PERMITS BY CERTIFICATION, AN INSTANT, ON-LINE CERTIFICATION AND PERMIT. THE PROPOSAL ALSO EXPANDS THE LIST OF ACTIVITIES ADDRESSED THROUGH A PERMIT BY RULE. HE NOTED THE PROPOSAL ALSO HARMONIZES THE FLOOD HAZARD AREA CONTROL ACT RULES WITH AMENDMENTS TO THE COASTAL ZONE MANAGEMENT RULES TO BE ADOPTED ON JULY 6.

IN RESPONSE TO A QUESTION FROM CHAIRMAN DOYLE AS TO WHETHER THIS RULE PROPOSAL IS SOMETHING THE BOARD SHOULD ADDRESS, MS. HRABAL RESPONDED THE RSIS DO NOT REFERENCE THE FLOOD HAZARD AREA CONTROL ACT RULES. THE BOARD WILL NEED TO ACT TO CHANGE THE STORMWATER RULES IN THE RSIS ONCE THE REVISED RULES ARE ADOPTED BY DEP. THE PROPOSAL DOES SIMPLIFY THE DEP REQUIREMENTS. SHE AGREED WITH THE CHAIRMAN THAT THERE IS NOT A REASON FOR THE BOARD TO COMMENT ON THE PROPOSED AMENDMENTS; THE RSIS ARE NOT IMPACTED.

IN RESPONSE TO A QUESTION FROM MR. KERNAN, MR. MAZZEI INDICATED THAT THE DEPARTMENT'S TARGET FOR ADOPTION WOULD BE SOMETIME

EARLY IN 2016. THE PUBLIC COMMENT PERIOD EXTENDS UNTIL JULY 31, 2015.

CHAIRMAN DOYLE THANKED MR. MAZZEI FOR ATTENDING AND FOR BRIEFING THE BOARD ON THE RULE PROPOSAL.

**B. S-2818, A BILL TO AMEND THE REQUIREMENTS FOR PRELIMINARY AND FINAL SUBDIVISION OR SITE PLAN APPLICATIONS IN THE MUNICIPAL LAND USE LAW**

MR. FISHER, IMMEDIATE PAST PRESIDENT OF THE NEW JERSEY BUILDERS ASSOCIATION (NJBA,) DESCRIBED THE CHANGES OVER TIME IN THE WAY MUNICIPALITIES TREAT DEVELOPMENT APPLICATIONS. THE MUNICIPAL LAND USE LAW (MLUL) TALKS ABOUT APPLICATIONS IN TENTATIVE FORM FOR DISCUSSION PURPOSES. MUNICIPALITIES HAVE DEVELOPED MORE COMPLEX ORDINANCES AND CHECKLISTS. THESE GO BEYOND "TENTATIVE" AND REQUIRE FULLY DEVELOPED SUBDIVISION OR SITE PLAN APPLICATIONS. THIS PRACTICE HAS FORCED APPLICANTS TO DESIGN THE PROJECT WITH EVERYTHING INCLUDED IN THE PLANS TO THE POINT WHERE DETAILED ENGINEERING PLANS HAVE BEEN PREPARED. THIS BILL WOULD DEFER MUCH OF THE ENGINEERING WORK TO THE FINAL APPLICATION. FOR PRELIMINARY APPLICATIONS, THE EMPHASIS WOULD BE ON THE PLANNING AND ZONING ASPECTS OF AN APPLICATION. THE PROPOSED CHANGES TO THE LAW WOULD ALLOW BOARD MEMBERS AND THE PUBLIC TO WEIGH IN ON THE DESIGN OF THE PROJECT AND WOULD GIVE GREATER FLEXIBILITY IN INCORPORATING ANY RECOMMENDATIONS MADE.

THERE WAS DISCUSSION AS TO WHETHER AN APPLICANT WOULD BE VESTED AT THE POINT OF PRELIMINARY APPROVAL AND PERMITTED TO PROCEED. MR. FISHER INDICATED THAT THIS WOULD NEED TO BE ADDRESSED IN THE BILL. AN APPLICANT SHOULD NOT BE ALLOWED TO BUILD IF THE IMPROVEMENTS HAD NOT YET BEEN DESIGNED AND APPROVED. HE POINTED OUT THAT CONSTRUCTION ON THE STRENGTH OF A PRELIMINARY APPROVAL IS NOT IN THE MLUL; IT ARISES OUT OF A COURT DECISION. NEVERTHELESS, IT WAS AGREED THAT THE VESTING OF RIGHTS SHOULD BE COVERED SPECIFICALLY IN THE LEGISLATION.

MR. MASER ASKED WHETHER THERE HAD BEEN ANY DISCUSSION OF CHANGING OR TIGHTENING THE CONCEPTUAL PHASE. MR. FISHER RESPONDED THAT THERE HAD, BUT IF THE CONCEPTUAL PHASE IS TIGHTENED, AND THERE IS STILL A PRELIMINARY AND FINAL APPLICATION, THEN THERE WILL BE THREE FORMALIZED STEPS TO THE APPROVAL PROCESS. THE CURRENT BILL DOES NOT REVISE ANY OF THE PROVISIONS FOR THE FINAL SUBDIVISION OR SITE PLAN APPLICATION. MS. TALLEY NOTED THAT VARIANCES ARE GRANTED AS PART OF THE REVIEW OF THE PRELIMINARY APPLICATION. MORE INFORMATION WOULD BE NEEDED TO ADDRESS REQUESTED VARIANCES. THE LANGUAGE OF THE DRAFT BILL SHOULD BE ADJUSTED ACCORDINGLY.

MR. FISHER REPORTED THE NEW JERSEY BUILDERS ASSOCIATION WILL MEET WITH REPRESENTATIVES OF VARIOUS ORGANIZATIONS TO ADDRESS THESE CONCERNS AND TO MAKE RECOMMENDATIONS TO THE SPONSOR FOR AMENDMENTS TO THE BILL. BOARD MEMBERS AGREED THAT THE SYSTEM IS BROKEN IN THAT TOO MUCH INFORMATION IS REQUIRED FOR A PRELIMINARY APPLICATION FOR SUBDIVISION OR SITE PLAN APPROVAL. HOWEVER, THERE ARE CONCERNS WITH THE DETAILS IN THE BILL. IT WAS ALSO NOTED THAT THIS MATTER DOES NOT FALL WITHIN THE BOARD'S PURVIEW.

WITH REGARD TO THE STATUS OF THE BILL, A COMMITTEE HEARING TOOK PLACE THE WEEK BEFORE THE BOARD MEETING AND IT WAS SUGGESTED THAT ORGANIZATIONS COMMUNICATE THEIR CONCERNS TO MR. FISHER. HE ADDED THAT THE NEXT COMMITTEE HEARING HAS NOT YET BEEN SCHEDULED AND IT IS UNLIKELY THAT ANYTHING WILL HAPPEN BEFORE THE FALL.

### PUBLIC COMMENTS

JACLYN RHOADS OF THE PINELANDS PRESERVATION ALLIANCE EXPRESSED CONCERN OVER BOTH THE PROPOSED FLOOD HAZARD AREA CONTROL ACT RULES AND THE CHANGES TO THE REQUIREMENTS FOR SOIL COMPACTION CURRENTLY UNDER DISCUSSION. SHE OBSERVED THAT THE ENVIRONMENTAL IMPACTS SEEM TO BE DISCOUNTED AND POINTED TO THE SIGNIFICANT BENEFITS OF PROTECTION OF THE ENVIRONMENT. IN RESPONSE TO A SUGGESTION FROM MS. HRABAL THAT THE ALLIANCE SHARE ANY INFORMATION IT MAY HAVE ON THE SOIL COMPACTION REQUIREMENTS WITH THE DEPARTMENT OF AGRICULTURE, MS. RHOADS INDICATED THAT SHE HAS DELIVERED QUANTIFIABLE COSTS AND BENEFITS TO MR. SHOWLER.

### BOARD MEMBER COMMENTS

CHAIRMAN DOYLE NOTED THAT CONCERN OVER THE FAILURE OF CORRUGATED PLASTIC PIPING HAD BEEN MENTIONED AT A RECENT TRAINING SESSION FOR MUNICIPAL ENGINEERS. HE SAID THAT HE WOULD LIKE TO BRING THIS ISSUE FORWARD FOR THE BOARD TO ADDRESS. MR. KERNAN RESPONDED THAT THIS PROBLEM WAS RAISED BY AN ENGINEER IN HAMMONTON. HE THINKS IT IS THE SAME ISSUE THAT ALREADY HAD BEEN BROUGHT TO HIS ATTENTION AND WILL ASK THE ENGINEER FOR SOME DATA.

THERE WERE NO FURTHER COMMENTS FROM BOARD MEMBERS.

### ADJOURNMENT

THERE BEING NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 11:45 A.M.

RESPECTFULLY SUBMITTED,

AMY FENWICK FRANK

SECRETARY TO THE BOARD

# NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

## Meeting Minutes of December 17, 2015

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

### ATTENDANCE

#### **Board Members:**

Joseph E. Doyle, Chair  
Valerie Hrabal  
J. Timothy Kernan  
Elizabeth McKenzie  
Thomas Olenik  
Edward M. Smith  
Janice Talley

Valentina DiPippo, Deputy Attorney General

#### **DCA Staff:**

Amy Fenwick Frank  
John Lago

#### **Guests:**

Carol Livingstone	
Kevin Chambers	
Jack Bredin	
Paul Goldfinger, MD	
Sean Areia	Neptune Township
Vito Gadaleta	Neptune Township
Susan Weber	Department of Transportation

### CALL TO ORDER

Joseph Doyle, Chair of the Site Improvement Advisory Board, called the meeting to order at 10:05 a.m.

### OPEN PUBLIC MEETINGS ACT

Chairman Doyle announced that, in accordance with the Open Public Meetings Act (P.L. 1975, chapter 231), notice of the time, date, and place of this meeting was given to

the Secretary of State of New Jersey, The Star-Ledger of Newark, The Asbury Park Press, The Press of Atlantic City, and The Courier-Post of Camden.

### ROLL CALL

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

### APPROVAL OF MINUTES

Chairman Doyle asked whether there were any corrections to the minutes of the meeting of June 18, 2015. There were none. A motion to approve the minutes was made by Ms. Talley and seconded by Mr. Kernan. All were in favor.

### OLD BUSINESS

#### **A. Application for Special Area Parking Standard for Ocean Grove, Neptune Township, Monmouth County**

Vito Gadaleta, Business Administrator for the Township of Neptune, indicated that the municipal attorney had been called into court and requested a postponement of consideration of the application. Chairman Doyle explained that there is no mechanism for postponement of consideration and said that he would entertain a motion to dismiss without prejudice the matter of the Neptune Township special area standard for parking in Ocean Grove. Ms. McKenzie made a motion to dismiss this matter without prejudice, which was seconded by Ms. Hrabal. The Chairman called for a roll call vote. All were in favor.

It was pointed out, for the record, that the meeting that was to have taken place today (December 17) was not a hearing. The hearing comes later in the process of consideration of a special area standard. What had been scheduled to take place was a meeting of the streets and parking standards committee to consider the special area application. The committee would then make a recommendation to the Board. The hearing before the Board would follow that.

Residents of Ocean Grove in attendance at the meeting asked whether they would be allowed to make comments. Chairman Doyle responded that residents would be invited to speak during the public comment portion of the Board meeting. The Chairman noted that any information provided to the streets and parking committee or to the Board of a fact finding nature could be filed for future consideration of an application. In response to a request for clarification, it was noted that a future application could be the same as the application most recently submitted by Neptune Township or different from that application. It would be a new application. The residents also asked whether there is a requirement for the municipal governing body to have public hearings on the application. It was explained that the regulations for special area standards require a resolution of the municipal governing body. In this case, a completely new application would be required and all of the steps, as prescribed by the rules, must be followed.

Department staff will send those who supply their e-mail addresses a copy of the relevant portion of the regulations.

## NEW BUSINESS

### **A. Issues with corrugated polyethylene pipe, Monroe Township, Gloucester County**

Concern had been expressed over the failure of corrugated plastic piping. Mr. Kernan submitted materials and a video of the interior of plastic pipe that had failed. He also made a correction for the record; the pipe in question is polyethylene pipe, not polypropylene. Staff viewed the film, but did not yet reach out to the manufacturer or to the municipality. Chairman Doyle asked whether failure is a widespread phenomenon. Ms. Hrabal pointed out that this was well researched and discussed at the time of adoption of the rules allowing these pipe materials. She added that State agencies, including the Department of Transportation and the NJ Turnpike Authority, allow the use of polyethylene pipe and she is not aware of any problems. Manufacturers have very specific standards for the installation of this pipe. There are bedding requirements based on the size of the pipe, etc.

It was decided that the Board should continue to monitor this issue and review any information received on pipe failure to determine whether there is a problem with the pipe material or failure is caused by improper installation.

### **B. Exception notices: ways to promote municipal and developer responses**

Chairman Doyle informed the Board that he is working on a piece on this subject for the League (of Municipalities) magazine. He said he suspects that the Board is not receiving notices of all of the *de minimis* exceptions or agreements to exceed granted by reviewers. Ms. McKenzie suggested that a clarification be issued stating whose responsibility it is to inform the Board. Chairman Doyle responded that this is the purpose of the article for the League magazine and suggested that a regulatory change be considered as a permanent reminder. Ms. Hrabal added that the problem is broader than towns not sending notifications. They don't understand the difference between *de minimis* exceptions, agreements to exceed and waivers. And they don't understand that the Board has no role in approving *de minimis* exceptions or agreements to exceed.

The Chairman indicated that he would like to establish a new committee to review the language and to see whether the rules should be clarified or simplified. Ms. McKenzie, Ms. Hrabal and Ms. Talley were appointed to the committee; Ms. Talley will serve as chair.

Discussion of the need to provide notification to the Board continued. Ms. McKenzie said that the duty to notify the Board should be part of every resolution of approval.

Ms. Hrabal recalled that a letter had been sent at some point in the past and asked whether a reminder should be sent annually. Mr. Kiernan suggested an end of the year report. Ms. McKenzie stated that the applicant should just be required to report. Ms. Talley said that a copy of the resolution of approval should suffice; the resolution should have the necessary details in it. These could be submitted via e-mail.

There was also a brief discussion about agreements to exceed. In particular, Board members expressed concern with the conditions imposed by fire companies for cul-de-sacs. Ms. Hrabal indicated that the Board should look at the relevant NFPA standard.

## PUBLIC COMMENTS

Chairman Doyle invited members of the public to offer comments. With regard to the special area standard application from Neptune Township, the Chairman stated that the Board would not take comments on the application itself as it is no longer before the Board. However, the Board would accept any information that would aid the Board in its understanding of the issues for consideration of any future application.

Mr. Jack Braden, a resident of Ocean Grove, asked whether the Board's dismissal of the application without prejudice meant that the Township has to come back. In response, Ms. McKenzie pointed out that the Township does not have to come back because there is no requirement for the Township to request a Special Area Standard. Chairman Doyle added that the Board is not an enforcing Board.

Mr. Braden indicated that from 1869 until 1980 Ocean Grove acted as its own municipality. The lots were originally designed for tents for camp meetings. Then people started putting cottages on their lots. Through a court decision in 1980, Ocean Grove became part of Neptune Township. He pointed out that 50 x 100 ft lots are twice the size of the lots in Ocean Grove. Ocean Grove developed very differently from other towns in New Jersey. It featured narrow streets and small lots of 30 x 60 ft. Development was to be limited to single-family dwellings, but the Township has been approving multi-family dwellings. Mr. Braden stated that a special area standard is warranted, but development should be limited to detached, single-family dwellings. Allowing multi-family dwellings with no off-street parking is nonsense. Mr. Braden indicated that he found out about the special area standard application through a local blog even though he goes to all of the municipality's meetings.

Dr. Paul Goldfinger, a resident of Ocean Grove, informed the Board that he is "Blogfinger" and that his blog has had 2.5 million visitors since 2009. He characterized Ocean Grove as culturally separate from Neptune Township. And he said that, for years, Neptune has been ignoring the RSIS parking standards in Ocean Grove. The Township has allowed "big box condos" that threaten historic designation of Ocean Grove. Dr. Goldfinger concluded by saying this is the third time Neptune's special area standard application for Ocean Grove was dismissed without prejudice. This is disrespectful of the Board and of the residents.

In response to public comments about a failure to follow the RSIS or municipal zoning ordinances, Chairman Doyle reiterated that the Board is not an enforcing body. In the case of any standard that is violated, residents must bring the lack of compliance forward to the municipal governing body or to the court system. Several Board members echoed the fact that the Board has no role in enforcement.

Mr. Kevin Chambers, a resident of Ocean Grove, asked about notification, and specifically, whether a municipality or a developer should be notifying the Board. He used the example of a developer who wanted to build a four-story structure where only two stories are allowed without providing parking. The parking requirement was to be addressed through notice to the Board. He was unsure as to whether the developer ever filed any notice with the Board. He expressed concern with compliance with the law. He also questioned the ethics of the local officials.

Chairman Doyle and Ms. McKenzie responded by explaining that enforcement is a local issue. Towns have the ability to reduce the parking required for a specific project. There is flexibility built into the parking requirements in the rules. Notice is provided to the Board when a *de minimis* exception or agreement to exceed has been approved to enable the Board to continue to review the rules, and to make revisions, when necessary. Chairman Doyle added that any evidence of corruption should be reported to the proper agencies.

Ms. Carol Livingstone, a resident of Ocean Grove, pointed out that the decisions made affect the quality of life of the people who love Ocean Grove and have lived there for many years. On Friday afternoons, she takes Uber to pick up her grandchildren because she cannot find parking when she returns. And she tells friends who are visiting to park in Asbury Park and walk over to Ocean Grove. She stated that Ocean Grove is becoming unlivable because of the number of cars.

After Ms. Livingstone addressed the Board, the Board moved to close the public comment portion of the meeting.

### BOARD MEMBER COMMENTS

Chairman Doyle noted that, at the next meeting, staff from the Department of Agriculture will make a presentation to the Board on the revised soil compaction standards. It was noted that this revised version is ready to go to the *New Jersey Register* as a proposal for public comment.

Ms. Hrabal informed the Board that the biggest change is additives (the addition of organic matter) to make the soil less compact. In revising the draft, the Department of Agriculture had two groups: one on cost and one on benefit. The group looking at benefit never came up with a benefit that could be related to the cost.

Chairman Doyle stated that, if the revised version is not substantially improved from what the Board had reviewed before, then the Board would again submit comments in

opposition to the proposed rule. He asked that the Board be kept informed as this advances. The Board may not need to have a formal meeting to discuss this; comments may be done via e-mail.

There were no further comments from Board members.

### ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 11:03 a.m.

Respectfully submitted,

Amy Fenwick Frank  
Secretary to the Board

# NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

MEETING MINUTES OF FEBRUARY 20, 2014

## LOCATION

CONFERENCE ROOM 129  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
TRENTON, NEW JERSEY

## ATTENDANCE

### **BOARD MEMBERS:**

JOSEPH E. DOYLE, CHAIR  
VALERIE A. HRABAL  
RICHARD M. MASER  
ELIZABETH G. MCKENZIE  
EDWARD M. SMITH  
JANICE TALLEY

### **DCA STAFF:**

AMY FENWICK FRANK  
JOHN LAGO

### **GUESTS:**

ELIZABETH DRAGON	DEPARTMENT OF
ENVIRONMENTAL PROTECTION	
COREY ANEN	DEPARTMENT OF
ENVIRONMENTAL PROTECTION	
DEAN MARCOLONGO	ATTORNEY REPRESENTING THE
BOROUGH OF AVALON	

## CALL TO ORDER

JOSEPH DOYLE, CHAIR OF THE SITE IMPROVEMENT ADVISORY BOARD,  
CALLED THE MEETING TO ORDER AT 10:22 A.M.

## ROLL CALL

ROLL WAS CALLED AND ATTENDANCE WAS DULY NOTED FOR THE RECORD.

## OPEN PUBLIC MEETINGS ACT

CHAIRMAN DOYLE ANNOUNCED THAT, IN ACCORDANCE WITH THE OPEN PUBLIC MEETINGS ACT (P.L. 1975, CHAPTER 231), NOTICE OF THE TIME, DATE, AND PLACE OF THIS MEETING WAS GIVEN TO THE SECRETARY OF STATE OF NEW JERSEY, THE STAR-LEDGER OF NEWARK, THE ASBURY PARK PRESS, THE PRESS OF ATLANTIC CITY, AND THE COURIER-POST OF CAMDEN.

## APPROVAL OF MINUTES

CHAIRMAN DOYLE ASKED WHETHER THERE WERE ANY CORRECTIONS TO THE MINUTES OF THE SEPTEMBER 13, 2012 MEETING. THERE WERE NONE. A MOTION TO APPROVE THE MINUTES WAS MADE BY MR. MASER AND SECONDED BY MS. HRABAL. ALL WERE IN FAVOR.

## OLD BUSINESS

### **A. DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) RULES**

CHAIRMAN DOYLE INTRODUCED ELIZABETH DRAGON OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND INVITED HER TO GIVE AN UPDATE ON THE DEP STORMWATER RULES. MS. DRAGON EXPLAINED THAT THE DEPARTMENT WILL BE GOING FORWARD WITH AMENDMENTS ADDRESSING WATER QUANTITY, WATER QUALITY AND MANUFACTURED TREATMENT DEVICES. THE DEPARTMENT ALSO WILL BE REMOVING "CERTIFICATIONS" FROM THE RULE AND RETAINING "VERIFICATIONS." BECAUSE THE STORMWATER MANAGEMENT RULES EXPIRE ON AUGUST 2, 2014, DEP ALSO WILL PUBLISH A NOTICE OF READOPTION WITHOUT CHANGE. MS. DRAGON ALSO MENTIONED THAT DEP WILL REMOVE THE NONSTRUCTURAL POINT SYSTEM FROM ITS WEBSITE. IT WAS INCLUDED AS PART OF THE BMP MANUAL TO PROMOTE NONSTRUCTURAL METHODS OF RUNOFF MANAGEMENT. A RECENT COURT RULING PROHIBITS USE OF THE SPREADSHEET BY THE DEP. STAFF MEMBERS ARE LOOKING AT POSSIBLE CHANGES TO REPLACE OR TO REVISE THIS SYSTEM.

IN RESPONSE TO A QUESTION FROM MS. HRABAL ABOUT THE STATUS OF THE FLOOD HAZARD RULES, MS. DRAGON INDICATED THAT THESE RULES ARE MAKING THEIR WAY THROUGH THE INTERNAL REVIEW PROCESS IN PARALLEL WITH THE CHANGES TO THE STORMWATER RULES. AS TO THE STATUS OF THE STORMWATER BEST MANAGEMENT PRACTICES (BMP) MANUAL REVIEW COMMITTEE AND THE CHANGES TO THE BMP MANUAL, MS. DRAGON SAID THAT SEVEN CHAPTERS WENT THROUGH THE BMP COMMITTEE AND ARE BEING REFORMATTED. THERE ARE NO TECHNICAL CHANGES BEING MADE, BUT THE CHAPTERS ARE BEING REVISED TO MAKE THEM MORE ACCESSIBLE AND MORE USER FRIENDLY. ALL OF THE GRAPHICS HAVE BEEN CHANGED; AND THERE WILL BE LINKS AND ASSOCIATED CHANGES TO THE WEBSITE. DEP IS ALSO TRYING TO TIE THE REQUIREMENTS IN THE RULES TO THE MANUAL. IN REPLY TO A QUESTION FROM MS. HRABAL AS TO WHETHER THE DOCUMENT WOULD BE A "TECHNICAL MANUAL," MS. DRAGON STATED THAT, WHILE THERE WAS DISCUSSION OF DOING SO, THE DEPARTMENT IS NO LONGER GOING IN THAT DIRECTION. THE REST OF THE CHAPTERS IN THE BMP MANUAL WILL BE PUT INTO THE NEW FORMAT; AND THE DEPARTMENT WILL REACH OUT TO THE COMMITTEE BEFORE GOING FORWARD WITH FINALIZING THE MANUAL.

MS. DRAGON ALSO OFFERED AN UPDATE ON THE WORK OF THE MUNICIPAL GROUP. SHE SAID THAT THE DEPARTMENT WILL BE CONDUCTING AN AUDIT OF THE MUNICIPALITIES. STAFF MEMBERS ARE DEVELOPING AN EVALUATION OF THE ENTIRE [NJPDES] PERMIT, NOT JUST THE POST-CONSTRUCTION PORTION. THE ANNUAL REPORT WILL BE USED AS THE FIRST MEASURE. THIS PROBABLY WILL BEGIN LATER THIS YEAR. THE PURPOSE OF THE AUDIT IS TO

ENSURE THAT THERE IS COMPLIANCE WITH THE MUNICIPAL STORMWATER PERMIT, BUT THE EXERCISE IS GEARED TOWARD EDUCATION AND INFORMATION GATHERING; IT IS NOT MEANT TO BE USED AS AN ENFORCEMENT TOOL. TO BEGIN, THE DEPARTMENT WOULD LIKE TO RUN THROUGH THE EVALUATION THIS YEAR WITH A COUPLE OF MUNICIPALITIES AND GET FEEDBACK ON HOW WELL IT WORKS FOR THEM.

MS. DRAGON SAID THAT THE DEPARTMENT ALSO IS WORKING ON GREEN INFRASTRUCTURE. THERE IS A PUSH TO INCORPORATE GREEN INFRASTRUCTURE IN THE AREAS AFFECTED BY SANDY. DEP IS PROVIDING FINANCIAL ASSISTANCE AND STAFF MEMBERS ARE ALSO DOING A LOT OF SPEAKING AND OUTREACH TO MUNICIPALITIES. IN RESPONSE TO A QUESTION FROM MS. TALLEY AS TO WHETHER THERE ARE WRITTEN POLICIES, MS. DRAGON SAID THAT THERE IS A GREEN INFRASTRUCTURE WEBSITE, BUT THE FACT SHEETS ARE GEARED TOWARD A PUBLIC AUDIENCE AND ARE NOT REALLY WRITTEN FOR ENGINEERS.

CHAIRMAN DOYLE THANKED MS. DRAGON FOR ATTENDING AND BRINGING THE BOARD UP TO DATE.

#### **B. DEPARTMENT OF AGRICULTURE SOIL COMPACTION RULES**

COPIES OF THE BOARD'S OCTOBER 4, 2012 LETTER COMMENTING ON THE PROPOSED RULES WERE INCLUDED IN THE MEETING PACKETS. ALSO INCLUDED WAS A COPY OF THE MEMO FROM FRANK MINCH OF THE DEPARTMENT OF AGRICULTURE, DATED JANUARY 17, 2014, REGARDING THE ADOPTED AMENDMENTS TO THE RULES. (IT WAS MENTIONED THAT MR. JOHN SHOWLER OF THE DEPARTMENT OF AGRICULTURE HAD A CONFLICT AND WILL ATTEND THE MARCH MEETING TO BRIEF THE BOARD ON THE SOIL CONSERVATION RULES.) MR. LAGO REPORTED THAT THE DEPARTMENT OF AGRICULTURE ADOPTED THE RULES WITH AMENDMENTS. THE EXISTING RULES ON SOIL COMPACTION WERE RETAINED AND THE DEPARTMENT WILL BE CONTINUING TO WORK ON THOSE REVISIONS.

#### **C. UPDATE ON NEPTUNE TOWNSHIP SPECIAL AREA STANDARDS**

MS. FRANK REPORTED THAT THERE HAS BEEN NO RESPONSE TO THE QUESTIONS POSED BY THE BOARD AND THERE HAS BEEN NO FURTHER WORD FROM THE MUNICIPALITY. IT APPEARS THAT THEY DO NOT HAVE INTEREST IN GOING FORWARD WITH AN APPLICATION FOR A SPECIAL AREA STANDARD. MR. LAGO NOTED THAT THERE HAS BEEN SOME DEVELOPMENT; IT SEEMS THAT THEY ARE PROCEEDING ON AN AD HOC BASIS, WHICH THEY MAY DO. THE RULES ALLOW TOWNS A GREAT DEAL OF FLEXIBILITY ON PARKING.

#### **D. UPDATE ON RSIS RULE AMENDMENTS**

MR. LAGO REVIEWED THE LANGUAGE APPROVED AT THE LAST BOARD MEETING ON UPDATES TO REFERENCED STANDARDS. SOME REFERENCES ARE VERY SPECIFIC, FOR EXAMPLE, THE REFERENCE TO A SPECIFIC EDITION OF THE BMP MANUAL. FOR OTHER STANDARDS, THE LANGUAGE WOULD ALLOW THE REVIEWER AND THE DEVELOPER TO AGREE TO USE A MORE RECENT VERSION.

MS. HRABAL INDICATED THAT SHE HAS COMMENTS ON SOME OF THE REFERENCED STANDARDS IN STORMWATER. THE CHAIRMAN ASKED THAT MS. HRABAL AND ANY OTHER BOARD MEMBERS WITH COMMENTS SHARE THOSE COMMENTS ELECTRONICALLY PRIOR TO THE NEXT MEETING. THE TENTATIVE GOAL IS TO BE PREPARED FOR A BOARD VOTE ON THE CHANGES AT THE MARCH 20 MEETING. THE CHAIRMAN ALSO ASKED THAT THE MEMBERS ABSENT BE INFORMED OF THE NEED FOR A VOTE.

## NEW BUSINESS

### **A. COMMITTEE MEMBERSHIPS AND APPOINTMENTS**

A COPY OF THE COMMITTEE APPOINTMENTS WAS INCLUDED IN THE MEETING PACKETS. CHAIRMAN DOYLE REVIEWED THE LIST. HE NOTED THAT JANICE TALLEY WOULD BE REPLACING JOSEPH FEMIA ON THE STREETS COMMITTEE. THE CHAIRMAN THEN REMOVED MS. TALLEY FROM THE WATER SUPPLY AND SANITARY SEWERS COMMITTEE AND PLACED TIM KERNAN ON THAT COMMITTEE. THERE WERE NO OTHER CHANGES TO THE COMMITTEE ASSIGNMENTS.

### **B. APPLICATION FOR SPECIAL AREA PARKING STANDARD FOR AVALON BOROUGH, CAPE MAY COUNTY**

COPIES OF THE APPLICATION RECEIVED FROM AVALON BOROUGH AND OF THE NOTICE TO APPEAR IN THE MARCH 3 ISSUE OF THE *NEW JERSEY REGISTER* WERE INCLUDED IN THE MEETING PACKETS.

CHAIRMAN DOYLE INTRODUCED DEAN MARCOLONGO, THE ATTORNEY FOR AVALON BOROUGH. MR. MARCOLONGO THEN OFFERED SOME BRIEF BACKGROUND INFORMATION ON THE BOROUGH AND THE APPLICATION. AVALON IS SMALL BARRIER ISLAND WHICH IS 98 PERCENT DEVELOPED; THE EXISTING DEVELOPMENT IS 93 PERCENT RESIDENTIAL. THE POPULATION OF THE BOROUGH GOES FROM 2,100 IN THE WINTER TO AN ESTIMATED 43,000 IN THE SUMMER. DURING THE LAST DECADE OR SO, THE BOROUGH HAS SEEN THE CONSTRUCTION OF VERY LARGE HOMES (AS MANY AS 16 BEDROOMS) ON DOUBLE LOTS. IN THE AFTERMATH OF SANDY, IT IS ANTICIPATED THAT THERE WILL BE MORE TEAR-DOWN/REBUILDS. THE BOROUGH HAS ASKED FOR A SPECIAL AREA STANDARD THAT WOULD CHANGE FOOTNOTE "A" OF TABLE 4.4 TO ALLOW ROUNDING UP INSTEAD OF ROUNDING DOWN. THE APPLICATION ALSO REQUESTS THAT A FOOTNOTE "E" BE ADDED, REQUIRING ONE ADDITIONAL OFF -STREET PARKING SPACE FOR EVERY BEDROOM OVER FIVE. HE POINTED TO THE NEED FOR SUFFICIENT PARKING AND STATED THAT SUCH A REQUIREMENT WOULD BETTER REFLECT LOCAL CONDITIONS.

MR. MASER AND MS. MCKENZIE ASKED THAT MR. MARCOLONGO PROVIDE THE REQUIREMENTS FROM THE BOROUGH'S ORDINANCES ON LOT COVERAGE LIMITS AND FLOOR AREA RATIO(S) AND THE ASSOCIATED DEFINITIONS PRIOR TO THE NEXT MEETING.

THIS APPLICATION IS BEING REFERRED TO THE STREETS COMMITTEE FOR CONSIDERATION AT THE MARCH 20 MEETING. ELECTRONIC COPIES OF ALL DOCUMENTS ARE TO BE DISTRIBUTED TO THE MEMBERS.

**ADJOURNMENT**

AT THIS POINT, A MOTION WAS MADE BY MR. MASER AND SECONDED BY MS. HRABAL TO HOLD THE REST OF THE AGENDA FOR DISCUSSION AT THE MARCH 20 MEETING.

THERE BEING NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 11:41 A.M.

RESPECTFULLY SUBMITTED,

AMY FENWICK FRANK  
SECRETARY TO THE BOARD

# NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

## Meeting Minutes of March 20, 2014

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

### ATTENDANCE

#### **Board Members:**

Joseph E. Doyle, Chair  
Joseph Femia  
J. Timothy Kernan  
Phyllis Marchand  
Richard M. Maser  
Elizabeth C. McKenzie  
Edward M. Smith  
Janice Talley

#### **DCA Staff:**

Amy Fenwick Frank  
John Lago

#### **Guests:**

John Showler	Department of Agriculture
Corey Anen	Department of Environmental Protection
Susan Weber	Department of Transportation
Dean Marcolongo	Attorney representing the Borough of Avalon

### CALL TO ORDER

Joseph Doyle, Chair of the Site Improvement Advisory Board, called the meeting to order at 10:52 a.m.

### ROLL CALL

Roll was called and attendance was duly noted for the record.

### OPEN PUBLIC MEETINGS ACT

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

## APPROVAL OF MINUTES

Chairman Doyle asked whether there were any corrections to the minutes of the February 20, 2014 meeting. There were none. A motion to approve the minutes was made by Mr. Maser and seconded by Ms. Talley. Of those voting, all were in favor. There were three abstentions (members not in attendance at the February meeting.)

## OLD BUSINESS

### **A. Update on Department of Department of Agriculture Soil Compaction Rules**

Chairman Doyle introduced John Showler of the Department of Agriculture and invited him to give an update on the soil conservation rules. Mr. Showler distributed a synopsis of the changes. This synopsis also may be found on the Department of Agriculture's website. He explained that the Department has updated all of the standards with the exception of topsoil and land grading. Both of these would address soil quality/soil compaction. The Department has recalled the committee and the committee has met four or five times. Ms. Hrabal continues to serve on the committee. The Department received divergent comments when this rule was published. The current goal is to scale back the requirements and to provide an opportunity to opt out. The assumption underlying the proposal published was that all of the soil was compacted by virtue of its being a construction site. The draft now under consideration would allow testing. If it can be demonstrated that the soil is not compacted, then interventions would not be required. The primary change is in topsoil standard. The original proposal called for five inches of topsoil, unsettled; the new draft calls for five inches plus or minus an inch of settled topsoil. Additionally, the land grading standard now has testing options. Staff and the committee are looking at what is workable and what is defensible.

Speaking to timeframe, Mr. Showler said that they hoped to be done with the technical recommendations within three or four months, but he noted that they must still do a cost/benefit analysis. The cost side of the equation is easy; the benefit side still is problematic. There is a question as to the longevity of the benefits, particularly given that the land use cannot be controlled. Once the issues under discussion are resolved, the Department will have to publish a proposal for public comment. This will not occur before end of the year. In the interim, Mr. Showler said that he would be glad to respond to questions on the adopted, modified standards.

Chairman Doyle thanked Mr. Showler for attending and for bringing the Board up to date.

### **B. Proposed Amendments to the Residential Site Improvement Standards (RSIS)**

Chairman Doyle, noting that the Board is not under pressure to move this proposal, asked whether there were any comments or whether any Board members needed additional time for review. Mr. Kernan noted that there is one community having issues

with the use of High Density Polyethylene (HDPE) pipe under roads. This is permitted under the RSIS. He added that it is possible that the projects in question had not used proper bedding material. Mr. Lago pointed out that the choice of pipe material is the designer's option with the exception of corrugated metal. The RSIS reference the ASTM standards and the manufacturer's specifications. Chairman Doyle asked whether others were experiencing problems with HDPE pipe. He stated that, if it is a universal problem, then the Board should address it. Mr. Kernan offered to check.

Mr. Maser made a motion, which was seconded by Ms. McKenzie, to approve the proposed amendments with the corrections submitted via e-mail by Board member Valerie Hrabal. All were in favor.

### **C. Application for Special Area Parking Standard for Avalon Borough, Cape May County**

The members of the streets committee met this morning to consider this application. Chairman Doyle invited Committee Chair Richard Maser to report on the meeting. Based on the testimony presented and a review of documents submitted, the Committee unanimously recommended that the special area be approved by the full Board. He referenced the application which includes a traffic study done several years ago and a letter from the Board attorney outlining the Borough's zoning requirements in response to member requests for additional information on zoning. The proposed special area standard involves two changes to the rules: rounding up to determine the number of parking spaces required for two or four bedroom units and requiring one off-street parking space per bedroom beginning with the sixth bedroom.

Mr. Kernan made a motion, which was seconded by Mr. Maser, to go forward with publication of a Notice in the *New Jersey Register* reflecting the fact that the streets committee had recommended approval and that the full Board would hold a public hearing at the May 15 meeting to consider the special area standard. All were in favor. The notice will appear in the April 21 issue of the *New Jersey Register*.

## **NEW BUSINESS**

### **A. Fees for Application and Inspection Review (FAIR) Act – Draft Escrow Legislation**

Ms. Frank noted that this is a preliminary draft; no legislation has been introduced. The problem that this draft seeks to address is spending from the engineering review escrow account. The possible solutions are still under discussion. Mr. Kernan explained that this draft would move the resolution of disputes over spending from escrow accounts from the County Boards of Appeals to a State appeal through the SIAB. He added that he sits on the Gloucester County Construction Board of Appeals and that the Board hears a lot of appeals on escrows. The Senate president has reached out to the New Jersey Society of Municipal Engineers and has asked that they discuss this with the

builders. Mr. Maser and Chairman Doyle both posited that this draft reflects a very early phase in the discussions and that the Board should wait until this issue is ripe for discussion.

**B. Adopt a Stormwater Basin Act (S-943 introduced January 16, 2014)**

Copies of this bill were shared with the Board. Mr. Lago noted that the RSIS say that basins must be maintained, but do not specify who is responsible for maintenance. It was explained that this bill has been provided for the information of the Board members and the organizations they represent. Questions were raised as to what happens if a volunteer organization fails to maintain the basin and as to liability if someone is injured. Chairman Doyle asked the Board members to review this bill, and specifically asked that the stormwater committee, chaired by Ms. Hrabal, review the bill to determine whether the Board should comment. Mr. Kernan suggested that the Department of Environmental Protection may also want to weigh in on this.

PUBLIC COMMENTS

None.

BOARD MEMBER COMMENTS

None.

ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 11:31 a.m.

Respectfully submitted,

Amy Fenwick Frank  
Secretary to the Board

# NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

**MEETING MINUTES OF MAY 15, 2014**

CONFERENCE ROOM 129  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
TRENTON, NEW JERSEY

## ATTENDANCE

### **BOARD MEMBERS:**

JOSEPH E. DOYLE, CHAIR  
PHYLLIS MARCHAND  
RICHARD M. MASER  
ELIZABETH C. MCKENZIE  
THOMAS OLENIK  
EDWARD M. SMITH  
JANICE TALLEY

### **DCA STAFF:**

AMY FENWICK FRANK  
JOHN LAGO

### **GUESTS:**

SUSAN WEBER                      DEPARTMENT OF TRANSPORTATION  
DEAN MARCOLONGO              ATTORNEY REPRESENTING THE  
BOROUGH OF AVALON

## CALL TO ORDER

JOSEPH DOYLE, CHAIR OF THE SITE IMPROVEMENT ADVISORY BOARD,  
CALLED THE MEETING TO ORDER AT 10:14 A.M.

## ROLL CALL

ROLL WAS CALLED AND ATTENDANCE WAS DULY NOTED FOR THE RECORD.

## OPEN PUBLIC MEETINGS ACT

CHAIRMAN DOYLE ANNOUNCED THAT, IN ACCORDANCE WITH THE OPEN  
PUBLIC MEETINGS ACT (P.L. 1975, CHAPTER 231), NOTICE OF THE TIME,  
DATE, AND PLACE OF THIS MEETING WAS GIVEN TO THE SECRETARY OF STATE  
OF NEW JERSEY, THE STAR-LEDGER OF NEWARK, THE ASBURY PARK PRESS,  
THE PRESS OF ATLANTIC CITY, AND THE COURIER-POST OF CAMDEN.

## APPROVAL OF MINUTES

CHAIRMAN DOYLE ASKED WHETHER THERE WERE ANY CORRECTIONS TO THE MINUTES OF THE MARCH 20, 2014 MEETING. THERE WERE NONE. A MOTION TO APPROVE THE MINUTES WAS MADE BY MR. MASER AND SECONDED BY MS. MCKENZIE. ALL WERE IN FAVOR.

**OLD BUSINESS**

**A. APPLICATION FOR SPECIAL AREA PARKING STANDARD FOR AVALON BOROUGH, CAPE MAY COUNTY**

MR. LAGO REPORTED THAT THE NOTICE OF TODAY'S MEETING AND OF THE PROPOSED SPECIAL AREA STANDARD WAS PUBLISHED IN THE *NEW JERSEY REGISTER*, AS REQUIRED. NO COMMENTS HAVE BEEN RECEIVED. CHAIRMAN DOYLE INVITED DEAN MARCOLONGO TO ADDRESS THE BOARD. HE REITERATED THAT THE PROPOSED SPECIAL AREA STANDARD FOR WHICH AVALON IS SEEKING APPROVAL WOULD AMEND FOOTNOTE "A" TO ALLOW ROUNDING UP AT ONE-HALF TO DETERMINE THE NUMBER OF PARKING SPACES REQUIRED. THIS CHANGE WOULD AFFECT TWO OR FOUR BEDROOM HOUSES. THE BOROUGH ALSO SEEKS TO ADD A FOOTNOTE "D" TO REQUIRE ONE OFF-STREET PARKING SPACE FOR EACH BEDROOM OVER FIVE. CHAIRMAN MASER NOTED THAT THE STREETS AND PARKING COMMITTEE HAS RECOMMENDED APPROVAL OF THE SPECIAL AREA THROUGH A MOTION AND A UNANIMOUS VOTE. THE BOARD MEMBERS HAVE RECEIVED COPIES OF THE MINUTES OF THE MARCH 20, 2014 STREETS AND PARKING COMMITTEE MEETING.

IN REPLY TO A QUESTION FROM DR. OLENIK AS TO WHY THE SPECIAL AREA, AND THEREFORE THE REQUIREMENT FOR ADDITIONAL PARKING, WOULD BEGIN WITH THE SIXTH BEDROOM, MR. MARCOLONGO NOTED THAT TABLE CURRENTLY IN THE RULES GOES UP TO FIVE BEDROOMS. THE BOROUGH NEEDS EXTRA PARKING TO MEET THE DEMAND FOR PARKING FOR THE LARGER HOUSES. AT THE CHAIRMAN'S INVITATION, MR. MARCOLONGO VERY BRIEFLY DESCRIBED THE SITUATION IN AVALON WHERE LARGE HOUSES BEING BUILT WITH A VERY HIGH NUMBER OF BEDROOMS. HE CITED A PARKING STUDY WHICH SHOWED THAT THERE ARE 6.75 CARS PER DWELLING UNIT. IN RESPONSE, THE BOROUGH IS TRYING TO MAXIMIZE OFF-STREET PARKING. MS. MCKENZIE ADDED THAT THE MUNICIPALITY HAS DONE EVERYTHING POSSIBLE TO MAXIMIZE ON-STREET PARKING.

CHAIRMAN DOYLE OBSERVED THAT, AS DESCRIBED, THESE HOUSES ARE MORE LIKE A COMMERCIAL USE THAN A SINGLE-FAMILY DWELLING. HE ASKED WHETHER THERE MIGHT BE SOME WAY TO ADDRESS THIS. IN RESPONSE, MR. MARCOLONGO REPORTED THAT BOTH AVALON AND CAPE MAY HAVE ADOPTED ORDINANCES DESCRIBING "RESORT HOUSES" AND REQUIRING THEM TO BE IN COMMERCIAL ZONES.

MS. MCKENZIE MADE A MOTION, WHICH WAS SECONDED BY MR. MASER, TO APPROVE THE SPECIAL AREA STANDARD FOR THE BOROUGH OF AVALON, AS SUBMITTED. A ROLL CALL VOTE WAS TAKEN; ALL WERE IN FAVOR.

THE BOARD THEN REVIEWED A DRAFT RESOLUTION APPROVING THE SPECIAL AREA STANDARD. A MOTION TO ADOPT THE RESOLUTION WAS MADE BY MR. MASER AND SECONDED BY MS. TALLEY. ALL WERE IN FAVOR.

**B. FEES FOR APPLICATION AND INSPECTION REVIEW (FAIR) ACT – DRAFT ESCROW LEGISLATION**

MR. MASER REPORTED ON A MEETING TO DISCUSS THE DRAFT LEGISLATION WHICH INCLUDED THE ENGINEERS. THE REPRESENTATIVES OF THE VARIOUS GROUPS ARE REVIEWING AND REVISING THE DRAFT LEGISLATION AND SEEKING POTENTIAL SOLUTIONS TO SOME OF THE PROBLEMS IDENTIFIED WITH ESCROW CHARGES AND BONDING. THE DISCUSSION INCLUDED REFINING WHICH SITE IMPROVEMENTS ARE BONDED AND HOW BONDS ARE RELEASED, AND DEVELOPING MORE UNIFORM ESTIMATES FOR COSTS OF SITE IMPROVEMENTS. AT THIS POINT, IT IS UNLIKELY THAT THE SITE IMPROVEMENT ADVISORY BOARD WILL HAVE A ROLE IN RESOLVING DISPUTES OVER CHARGES.

**C. ADOPT A STORMWATER BASIN ACT (S-943 INTRODUCED JANUARY 16, 2014)**

IT WAS NOTED THAT VALERIE HRABAL, CHAIR OF THE STORMWATER COMMITTEE, HAD ADDRESSED THIS BILL THROUGH E-MAIL AND HAD SAID THAT SHE DID NOT THINK IT NECESSARY FOR THE BOARD TO COMMENT.

**NEW BUSINESS**

**A. READOPTION OF THE RESIDENTIAL SITE IMPROVEMENT STANDARDS (N.J.A.C. 5:21)**

N.J.A.C. 5:21 WILL EXPIRE IN OCTOBER, 2014. A MOTION WAS MADE BY MS. MCKENZIE AND SECONDED BY MR. MASER TO APPROVE READOPTION OF N.J.A.C. 5:21. ALL WERE IN FAVOR.

**INFORMATION**

**A. STATUS OF NEPTUNE TOWNSHIP (OCEAN GROVE) APPLICATION FOR SPECIAL AREA STANDARD**

MR. LAGO GAVE A BRIEF SYNOPSIS OF PREVIOUS DISCUSSION OF AN APPLICATION FOR A SPECIAL AREA STANDARD FOR OCEAN GROVE (NEPTUNE TOWNSHIP) AND AN UPDATE ON THE MOST RECENT INQUIRY FROM THE PLANNER. NO NEW PROPOSAL HAS BEEN RECEIVED YET. HE NOTED THAT THERE ARE SOME REBUILDS, TEAR DOWNS AND CONVERSIONS OF OLD HOTELS TAKING PLACE. THE BOARD WILL BE ADVISED IF A NEW APPLICATION IS RECEIVED.

**PUBLIC COMMENTS**

SUSAN WEBER OF THE DEPARTMENT OF TRANSPORTATION INTRODUCED HERSELF AND SAID THAT SHE IS AVAILABLE TO HELP WITH ANY ISSUES THAT MAY ARISE.

**BOARD MEMBER COMMENTS**

BECAUSE THE BOARD HAD ADDRESSED ALL ITEMS WHICH WERE RIPE FOR BOARD ACTION, MR. MASER MADE A MOTION, WHICH WAS SECONDED BY MS. MCKENZIE, TO SUSPEND MEETINGS FOR JULY AND AUGUST. ALL WERE IN FAVOR.

**ADJOURNMENT**

THERE BEING NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 11:45 A.M.

RESPECTFULLY SUBMITTED,

AMY FENWICK FRANK  
SECRETARY TO THE BOARD

# NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

**Meeting Minutes of April 19, 2012**

## LOCATION

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

## ATTENDANCE

### **Board Members:**

Joseph E. Doyle, Chair  
Joseph A. Femia  
J. Timothy Kernan  
Phyllis L. Marchand  
Richard M. Maser  
Elizabeth C. McKenzie  
Thomas J. Olenik  
Edward M. Smith

### **DCA Staff:**

Amy Fenwick Frank  
John Lago  
Michael Whalen

### **Guests:**

Edward Frankel	New Jersey Department of Environmental
Sandra Blick	Protection
John Showler	Department of Agriculture, Soil Conservation
Elizabeth George-Chenigra	NJ Builders Association
Greg Perry	Morris County Planning Board

## CALL TO ORDER

Joseph Doyle, Chair of the Site Improvement Advisory Board, called the meeting to order at 9:48 a.m. Chairman Doyle noted that he is sitting in place of, but not taking the place of, former Chairman Bob Kirkpatrick. He said that it is an honor to serve in this role and mentioned the progress made. The Board is now refining the process that was

begun. He expressed the hope that the Board would be able to hold up this standard of excellence.

### ROLL CALL

In lieu of a roll call, the Chairman invited the members to introduce themselves. Attendance was duly noted for the record.

### OPEN PUBLIC MEETINGS ACT

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

### APPOINTMENT OF CHAIRMAN

Chairman Doyle noted that, at the June, 2011 meeting, he had been appointed Interim Chair of the Board. Mr. Maser made a motion, which was seconded by Ms. McKenzie, that Mr. Doyle should be appointed Chairman. The motion carried unanimously.

### APPROVAL OF MINUTES

Chairman Doyle asked whether there were any corrections to the minutes of the June 16, 2011 meeting. There were none. A motion to approve the minutes was made by Mr. Maser and seconded by Mr. Doyle. All were in favor with the exception of Mr. Kernan, Ms. McKenzie and Ms. Marchand who abstained.

### OLD BUSINESS

#### **A. Amendments to New Jersey Department of Environmental Protection (DEP) Flood Hazard Area Control Act Rules, Stormwater Management Rules and Stormwater Best Management Practices (BMP) Manual**

Chairman Doyle noted that draft revisions to the DEP rules have been shared with the Board via e-mail. He asked John Lago to give a brief overview. John introduced Ed Frankel and Sandra Blick of the DEP and described the stakeholder process that DEP has established for revision of the flood hazard control and stormwater management rules. The stormwater rules are tied closely to Subchapter 7 of the RSIS. The Board will remain involved and will follow this revision process closely.

Ed Frankel stated that DEP staff are in the process of revising the stormwater rules. They are piggybacking the flood hazard rules on some of the changes that need to be completed quickly and eliminating some discrepancies between the two sets of rules. At this point, they are dealing with only a small portion of the stormwater rules—the portion that overlaps the flood hazard rules. He noted that the rulemaking process is very time consuming. The balance of the issues in the stormwater management rules will be addressed in a separate rulemaking. These issues will take more discussion.

They, too, will involve a stakeholder process to gain consensus on the changes. He then introduced Sandra Blick to discuss the details of the stormwater rules. In the first rulemaking, the largest issue is the shift on the 300 ft. buffer. There currently are two, separate buffers: the special water resources protection area and the riparian zone. They are very similar, but have different criteria. It has been agreed that this creates confusion. As a result, DEP is proposing to eliminate the special water resources protection area section of the rules and to have a single set of criteria to be included in the flood hazard rules. Additionally, the stormwater rules will be changing from impervious surfaces to vehicular surfaces to address pollutant loading. With regard to stormwater quantity, the amendments will include clarifying the requirements for reducing peak flows off the site and streamlining the manufactured treatment device review and approval process.

Adoption of the first rule proposal is anticipated next spring/summer. The stormwater rules are set to expire in August, 2014. The larger rulemaking will need to be completed prior to that date. Ms. Blick also spoke to staff changes at DEP. It was announced that Mr. Frankel will be retiring in June. There is a new Assistant Director and new Assistant Commissioner, Michele Siekerka.

Chairman Doyle asked for clarification on the timetable and said that the Board would want to scrutinize the changes and participate in the process going forward. Val Hrabal will continue to serve as Chair of the Stormwater Committee; Chairman Doyle also will attend stakeholder meetings at DEP and said other Board members may be asked to attend these meetings if he is unable to do so. He thanked DEP staff for coming and wished Mr. Frankel well on his retirement.

Mr. Frankel noted that there is a laundry list of issues that DEP is looking at for the larger rulemaking. He asked that everyone keep in mind or list items that absolutely must be addressed. Priorities have not yet been set.

Dr. Olenik asked for clarification on what Ms. Blick said about the review of the effectiveness of water quality measures that would be undertaken. Ms. Blick said that they would be reviewing the programs and how they work. DEP will be looking at the programs as a whole and the rules as a part of that. Mr. Frankel pointed out that some rules, such as the NJPDES rules, are on the enforcement side. A separate group within the Department will be examining the stormwater regulatory and programmatic responsibilities. Dr. Olenik said that his question is more basic. He is asking whether anyone really knows whether the required stormwater quality measures work. Will there be sampling conducting to determine whether these systems work with regard to water quality? Ms. Blick noted that, for the gravel wetlands serving Barnegat Bay, DEP will be conducting sampling on these systems and looking at the different designs and how they impact removal rates. This effort will be starting this fall or next summer, depending on completion of construction of the gravel wetlands. The bioretention systems have not yet been sampled. Dr. Olenik stated that there are lots of private systems out there and there is no proof that they're working. Separate from the question of maintenance is the question of whether they are working. Mr. Frankel

replied that he does not know; for the manufactured treatment devices, they will be ironing out the problems with the process and retesting. With regard to other water quality measures, theoretically, they all function; they are tested using a uniform distribution of particle size in a strictly controlled laboratory situation. Clearly, these systems won't work as well in the real world. Dr. Olenik asked why, with so many systems out there, DEP wouldn't want to know whether they work. Ms. Blick made reference to the 319 program and monitoring of BMP effectiveness undertaken through this program. Some of the BMP's work and they are evaluating some that are not functioning. It appears that those not functioning were not designed in accordance with the Manual. She offered to request this information and pass it along to the Board. Mr. Frankel added that maintenance is critical. Infiltration basins should work if installed properly and maintained. Dr. Olenik reiterated that DEP is establishing engineering criteria without supporting data indicating that these measures work. It is essential to have data. Mr. Frankel pointed to the lack of resources for testing. Dr. Olenik pointed out that is it also a resource issue if these systems are designed and installed and don't work. Chairman Doyle indicated that these questions will continue to be raised as the process goes forward. Mr. Kernan added that the Pinelands Commission does some testing and has had some studies done and may be able to supply some information.

Mr. Kernan asked for clarification of the timetable for the flood hazard rules. Ms. Blick responded that the draft has not yet been distributed to the stakeholder committee. When she estimated an adoption date sometime next spring or summer, she was referring only to the smaller package of amendments to the stormwater management rules.

Ms. McKenzie asked about monitoring and testing of stormwater management measures. She suggested that DEP conduct spot field tests to determine whether the goals of the rules are being accomplished. If requirements are being imposed, these requirements carry with them development costs and land use impacts. This would indicate that it would be important to know that they are working. Ms. Blick offered to pass these concerns and recommendations forward.

Chairman Doyle offered to resend concerns previously raised by the Board with regard to the efficacy of some of the stormwater measures.

## **B. Street Width and Fire Department Vehicle Access**

Ms. Frank reported on a meeting of the Fire Codes Advisory Council held in December and attended by Chairman Doyle. At that meeting, the members of the Council were asked to submit any documentation they may have with regard to difficulties in navigating streets designed to meet the RSIS. To date, nothing was sent. Ms. McKenzie said that this is a problem in many municipalities. She suggested that the Board members could sit down with representatives of the Fire Codes Advisory Council on this issue and be proactive. Chairman Doyle reiterated that, both when the Acting Director of the Division of Fire Safety attended the June meeting of the Board and when he attended the December meeting of the Council, the representatives of the fire service were welcomed and encouraged to bring their concerns and supporting

documentation to the Board. Ms. McKenzie supports holding a special meeting with representatives of the fire service to resolve this issue. She suggested that the Board consider a policy statement or a clarification on street widths so towns have some defense in dealing with the fire service's requests. Both the RSIS and the Uniform Fire Code must be reviewed.

### **C. Incorporation of Low-Impact Development Standards into the RSIS**

Mr. Lago suggested that this topic be addressed by asking the committees to make suggestions of low-impact design standards to be incorporated into the RSIS. Chairman Doyle noted that water supply and sanitary sewers are discussed in Rutgers Professor David Listokin's study. 1985 standards are applied today without challenges or problems. Mr. Lago pointed out that the sizing standards in use are based on demographic trends from the 1980's. Household sizes are now smaller. However, we have not gotten any serious questions about water supply. Dr. Olenik responded that this is worth revisiting. He noted that, while there is no harm in examining the questions, the eight inch standard is here to stay. He added that the Board would need to look at the requirements imposed by DEP, too. Mr. Lago observed that the RSIS has proven to be sufficiently flexible and does not seem to restrict certain kinds of designs.

## NEW BUSINESS

### **A. Proposed Changes to the RSIS for 2012 – Updating the Referenced Standards**

Ms. Frank introduced the topic and made reference to Mr. Lago's memo to the Board included in the meeting packets. Mr. Lago noted that the memo is intended as a start. Chairman Doyle emphasized the importance of knowing whether the content has changed. The Board must be clear on what is referenced. Mr. Lago reported that we have not been getting questions on the referenced, technical standards. The reason for having a referenced standard is to ensure that there is consistency in the use of products or methods that meet a standard. Chairman Doyle added that the Board needs to know about changes and adopt updated standards. Ms. McKenzie asked whether staff could identify substantive changes. Mr. Lago responded that some of these standards have changed multiple times since the last version adopted by reference. Perhaps the Board should assume that the latest version is consistent with the intent and purposes of the Act until or unless information to the contrary is presented. Chairman Doyle suggested referencing the latest publications. Mr. Kernan added that, in practice, engineers have used the updated standards.

It was agreed that the referenced standards should be updated. Staff is to draft a rule proposal for the Board's consideration.

## INFORMATION

### **A. Soil Compaction Rule Proposal – Department of Agriculture**

Chairman Doyle invited John Lago to address this topic. Mr. Lago noted that the Department of Agriculture, too, has undertaken a stakeholder process to review and revise the rules and to write the new soil compaction standards. Val Hrabal has participated. He introduced John Showler of the Department of Agriculture who then reviewed the proposed amendments. The erosion control standards (N.J.A.C. 2:90) must go through the rulemaking process. The Department had undertaken a routine review, including correcting errata, rewriting sections to make the requirements clearer and easier to implement and expanding choices for designers in terms of run-off management.

Legislation passed revising the statute to require standards to address soil compaction on construction sites. As originally proposed, the changes to the statute were extremely prescriptive. The Department of Agriculture worked with the Legislature to incorporate more flexible language. The Department also worked with Stephanie Murphy, a soil scientist from Rutgers and NRCS. There was an attempt to incorporate soil compaction into the existing standards by adding a requirement for computing, based on organic matter content in soil, what would need to be added to achieve a specified level. There was also discussion of what areas should be exempt, for example the area within 10 ft of a foundation or underneath paved surfaces.

Mr. Showler explained that a 16 gauge survey wire is to be inserted into subsoil in several locations on the property. If the wire does not bend, then there probably are not conditions that would cause infiltration problems. A table of bulk densities for different types of soil also is presented. If it is determined that compaction must be addressed, then the developer must have a six inch lift of topsoil. Assuming that the organic content has been brought up to spec, equipment is used to rake the soil. This involves going six inches down plus the six inches of top soil added for a total of 12 inches to be mixed in one pass. This will be difficult to do on construction sites. One district did a cost calculation. The New Jersey Builders Association (NJBA) also did a calculation. The Department of Agriculture did its own calculation. It is estimated that the cost will be \$15,000 to \$16,000 per acre. According to researchers at the University of Nebraska, if the property is not maintained, in three to five years, it will be back to the pre-intervention density level.

Ms. McKenzie asked whether these standards apply to all land or only to land previously developed. Mr. Showler responded that the program only deals with new construction, but it does not matter whether it was a previously developed site. Ms. McKenzie expressed concern with applying this standard uniformly. She noted that there is a need to test for compaction to support buildings and parking areas. Mr. Showler explained that the proposed rules look at how the site is proposed to be developed. Open space, in the eyes of the revised statute, is a potential area for additional infiltration. The statute calls for the soil to allow for infiltration. The requirements would apply only to land that is being disturbed for development/redevelopment.

Ms. McKenzie asked whether the interrelationship between these requirements and the requirement to remediate contaminated sites had been taken into consideration. Mr. Showler replied that such sites would be exempt. For example, sites with landfill capping would not be subject to these rules.

Dr. Olenik expressed concern that the cost imposed for something that will work for three to five years makes no sense. He asked why the Department is proposing these rules. Mr. Showler replied that the statute (Soil Erosion and Sediment Control Act NJSA 4:24-39) requires it. He went on to say that the Department obtained input from academia, environmentalists, etc. They don't know how well this will work once it is implemented. Questions have been raised as to the extent to which this is actually a problem and the extent to which the proposed requirements will fix the problem. It will be difficult for staff to do a cost/benefit analysis for this rule. And it is only effective for small storm events.

Mr. Lago asked about the timetable for publication of the proposed rule. He also noted that the Ocean County soil district manager who served on the stakeholder committee described the problem as one where owners were left with ground as hard as concrete; no infiltration would take place, fertilizer would run off, etc. Mr. Showler responded that quite a few credibility issues and questions had been raised with regard to the study conducted. A Lincoln, Nebraska laboratory reviewed the study results and noted that the lack of porosity could not be accounted for by compaction alone. There is some other factor at play. Mr. Showler added that the Department was asked to come up with different standards for the Pinelands, possibly not requiring seeding at all and letting nature take its course. The concerns leading to this rule were mostly generated by the Barnegat Bay, but the requirements will apply statewide. In response to Mr. Lago's question about the timetable, Mr. Showler said that legal staff in the Department is undertaking a review of the draft rules now. When this review is completed, the rule proposal will go to the Office of Administrative Law for publication in the *New Jersey Register*.

Ms. McKenzie observed that the specific problem described does not sound like something that requires a whole new set of regulations. Mr. Showler responded that experience in the field around the State indicates that the existing standards seem to be adequate if followed.

Chairman Doyle asked that a copy be sent to the Board before it goes to the *New Jersey Register*. Mr. Showler agreed to share the final version of the proposed rules. He will send a package of documents for the Board's consideration. There will be an opportunity for everyone to express their concerns through the public comment process. Ms. McKenzie suggested that the Board send a letter or start to react as soon as the proposal is received. She asked that the Board be kept in the loop.

## **B. Committee Membership**

Chairman Doyle noted that the committee membership list is in the meeting packets and has been shared with the Board via e-mail. He invited Board members to bring any concerns or requests for reassignment to his attention.

**C. P.L. 2011, c. 215 – Prohibits use of regulatory guidance documents except under certain circumstances**

Copies of this newly-enacted law were distributed to the Board. It was noted that this impacts the DEP; under this law, guidance documents are not enforceable unless adopted as rules or technical manuals.

**D. Travel Reimbursement**

The forms for requesting reimbursement of travel costs were provided in the meeting packets.

PUBLIC COMMENTS

There were no members of the public wishing to address the Board.

BOARD MEMBER COMMENTS

There were no Board member comments.

ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 11:55 a.m.

Respectfully submitted,

Amy Fenwick Frank  
Secretary to the Board

# NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

**Meeting Minutes of September 13, 2012**

## LOCATION

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

## ATTENDANCE

### **Board Members:**

Joseph E. Doyle, Chair  
Joseph A. Femia  
Valerie A. Hrabal  
J. Timothy Kernan  
Phyllis L. Marchand  
Richard M. Maser  
Elizabeth C. McKenzie  
Edward M. Smith  
Janice Talley

### **DCA Staff:**

Amy Fenwick Frank  
John Lago

### **Guests:**

John Showler  
Gregory Perry

Department of Agriculture, Soil Conservation  
Morris County Planning Board

## CALL TO ORDER

Joseph Doyle, Chair of the Site Improvement Advisory Board, called the meeting to order at 9:43 a.m.

## ROLL CALL

Roll was called and attendance was duly noted for the record.

## OPEN PUBLIC MEETINGS ACT

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

## APPROVAL OF MINUTES

Chairman Doyle asked whether there were any corrections to the minutes of the April 19, 2012 meeting. There were none. A motion to approve the minutes was made by Mr. Maser and seconded by Mr. Kernan. All were in favor.

## OLD BUSINESS

### **A. Amendments to New Jersey Department of Environmental Protection (DEP) Flood Hazard Area Control Act Rules, Stormwater Management Rules and Stormwater Best Management Practices (BMP) Manual**

Chairman Doyle asked John Lago to give a brief update. Mr. Lago noted that DEP has not had a stakeholder meeting on its stormwater rules since the last meeting of the Site Improvement Advisory Board. Ms. Frank reported that DEP is moving forward with readoption, with amendments, of its flood hazard area control act rules. There is no publication date yet; it may be submitted to the Office of Administrative Law in October. Ms. Hrabal cautioned that, as part of this proposal, DEP is changing the definition of C-1 waterways. There will be conflicts and confusion for a time following the promulgation of this rule. Chairman Doyle asked that all proposed amendments to the DEP rules be brought forward and that members of the Board and the organizations they represent take the opportunity to review these rules and offer comments.

### **B. Proposed Changes to the RSIS for 2012 – Updating the Referenced Standards**

Mr. Lago presented a sentence to be added to NJAC 5:21-8. Staff is suggesting that the dates of the referenced standards be deleted from the technical subchapters and that they appear only in Subchapter 8. Adding this language will enable designers and reviewers to use the version of the standard they have. Some of the standards change often and the changes may be editorial in nature. Ms. Hrabal said that this generally is a good and workable solution, but she expressed concern about the ability to review substantive changes made to subsequent versions of the soil erosion rules and of the BMP manual. Mr. Lago responded that a specific edition of the DEP BMP manual is repeated and specified in Subchapter 7. This will not change. Mr. Maser agreed that this is a good solution.

Mr. Maser made a motion which was seconded by Ms. Hrabal to approve this draft amendment. All were in favor.

## NEW BUSINESS

### **A. Parking Standard Amendment – Proposed by Charles Latini, PP, ACIP, New Jersey Chapter, American Planning Association**

Chairman Doyle asked how the Board would like to respond to the proposed amendments. Mr. Maser replied that the language of the proposed amendments is objectionable. While it may have been written with the best of intentions, there is an underlying assumption that a municipality adopting its own standards would be beneficial. Ms. Hrabal agreed that the proposed changes, as drafted, leave too much to the municipality. Ms. Talley noted that the definition of urban area may refer to the definition in the State Plan. Municipalities already can allow alternative parking without going through the adoption of a special area standard for redevelopment in an urban area. Ms. Hrabal expressed concern about municipalities using this to circumvent the intent and purposes of the Act. She suggested that another column could be added for parking in urban redevelopment areas if the Board finds it is necessary. Mr. Maser added that this would depend upon the availability of mass transit and other factors. Mr. Kernan stated that urban areas typically are mixed use, and therefore, would not be subject to the RSIS. Often, it is not possible to separate the residential from the nonresidential portions of a redevelopment project. Ms. McKenzie suggested that, if the concern is an increase in the parking requirement, the requirement could be written to allow a reduction in the parking. She added that, in redevelopment areas, which may be spotty, as opposed to a large, defined area, a special area standard may not be the best solution. It was agreed that the proposal, as worded, is not acceptable. It should specify that it applies to redevelopment areas and not to whole zones. It was further agreed that municipalities should not be allowed to change the parking requirements of the RSIS through a zoning ordinance or through inclusion of a parking standard in the master plan.

The proposed amendments were referred to the Streets and Parking Committee for review.

### **B. Soil Compaction Rule Proposal – Department of Agriculture**

Chairman Doyle invited John Showler of the Department of Agriculture to address this topic. Mr. Lago noted that the referenced standards are in the Board members' meeting packets as are preliminary comments from Dr. Olenik and Ms. Hrabal. Mr. Showler reviewed the status of the proposal. The deadline for submission of comments is October 5. Many of the proposed amendments to N.J.A.C. 2:90 are minor corrections. Once the rule is adopted, the standards become part of the rule by reference. Reviewing the process, Mr. Showler noted that information on the impact of adoption of soil compaction standards was left out of the original proposal. An addendum was published in the *New Jersey Register* and the comment period was extended. Comments received will come back to the State Soil Conservation Committee at its November meeting. It is anticipated that a Notice of Adoption will then be published in the *New Jersey Register*.

A discussion of the proposed requirements for soil compaction followed. Ms. McKenzie observed that the specific problem described does not sound like something that requires a whole new set of regulations. Mr. Showler responded that experience in the field around the State indicates that the existing standards seem to be adequate if followed.

Ms. Hrabal stated that the proposed rules conflict with RSIS as written. These standards are not necessarily predictable, upfront testing adds to cost, there is a lack of predictability as to how this is quantified. Is it necessary to test every square foot of the property? In response to her question as to whether the Board would offer technical comments, Chairman Doyle stated that the Board should do so.

In response to a question from Ms. McKenzie as to whether the Department of Agriculture's proposed standard for soil compaction would apply to residential developments, Mr. Showler stated that it would apply to all development. The required interventions would have a limited impact—perhaps three to five years, depending upon how the site is maintained.

McKenzie observed that the proposed rules call for an elaborate exercise to be undertaken with only short-term benefits. This is merely cost-generative without equivalent long-term environmental benefits. It runs contrary to the intent and purposes of the RSIS. Mr. Kernan suggested that perhaps it would be helpful to look at curve numbers. There is a lack of confidence in the amount of run-off. Mr. Showler responded that there is a question as to whether commonly used modeling accurately reflects run-off. This has been the subject of much debate. Chairman Doyle questioned the rationale of imposing these requirements if everyone is aware that there is a limited benefit of only three to five years duration.

Ms. Hrabal offered some background based on her attendance at the committee meetings. These requirements are being driven by Ocean County, and specifically, the Barnegat Bay area. This is an attempt to impose a statewide solution to a problem encountered there, but soil conditions are not the same statewide. Ms. McKenzie asked whether there would be any benefit in pointing out that the standards should be refined and specific to the various regions of the State. Mr. Showler responded that there were soil scientists from Rutgers participating in the development of these requirements. The idea is that site conditions would be measured ahead of time. The standards establish a minimum which may already exist on the site.

The discussion then went to the preparation of comments from the Board by the October 5 deadline. Chairman Doyle stated that these comments should start with the justification for the Board's involvement in the technical aspects of the proposal. Ms. Marchand noted that while the proposed rules have a regional impetus, the Board must look at whole State and what is good for everyone. This proposal does not have the global scope the Board is supposed to be dealing with. In response to comments about the costs and benefits, Mr. Showler said that the cost to comply can be calculated. The question is how to quantify the benefit.

Ms. Hrabal suggested that the Board's comments begin with the intent and purposes of the Act. Among the issues raised by the New Jersey Builders' Association was the question of how the six month grace period provided in the RSIS would be accommodated. Mr. Showler responded that, while there is no statute or regulation establishing a grace period, Soil Conservation does allow a grace period.

It was agreed that Board members should get their comments to Mr. Lago by September 24. Staff would then compile a draft and circulate it to the Board so that the comments could be submitted to the Department of Agriculture by the October 5 deadline.

A motion was made by Mr. Maser and seconded by Ms. McKenzie to authorize staff to prepare comments, as discussed, to send to the Department of Agriculture. The Board members' agreement with the comments to be submitted would be obtained via e-mail. The focus and theme of the comments would be the Board's concern with the cost vs. the benefit of the rules as proposed. All were in favor.

Chairman Doyle thanked Mr. Showler for his attendance at the meeting and his presentation to the Board.

### **C. Neptune Township's interest in special area parking standard for Ocean Grove**

Mr. Maser reported on an August 16 meeting of the Streets and Parking Committee with representatives of Neptune Township regarding a special area standard for parking in the Ocean Grove section of the Township. The committee gave several suggestions for a slightly different approach and requested some additional information. There are a limited number of properties that may be impacted. The committee asked that the Township identify how many and the size of those properties. The Township was also asked to re-measure parking. There will be another committee meeting with the Township's representatives before the application is brought back to the Board. This application is on hold at the moment awaiting this additional information from Neptune Township.

Ms. McKenzie said that she agrees with the additional information requested by the committee, but she would like a legal opinion as to the applicability of the RSIS to a redevelopment plan because a redevelopment plan is not enabled by the Municipal Land Use Law. Mr. Maser and Ms. Hrabal responded that they could not see why the RSIS would not apply.

### **D. Discussion of how Board members share information with the organizations they represent**

Chairman Doyle noted that the meetings of the Board are public meetings. Any information gleaned from Board meetings can and should be shared with the organizations the Board members represent. He also suggested that members ask whether there is feedback that these organizations would like brought back to the

Board. Using the proposed changes to DEP's stormwater rules as an example, the Chairman noted that this is a very technical subject and it is difficult for any individual to try to digest. He would like the Board members to reach out and bring forward comments, concerns or technical opinions from the organizations represented on the Board. There was general agreement.

#### **E. 10 a.m. Start Time for Board Meetings**

Chairman Doyle proposed that future Board meetings begin at 10 a.m. to allow members to avoid rush hour traffic getting into Trenton. A motion was made and seconded to begin future meetings at 10 a.m. All were in favor.

#### PUBLIC COMMENTS

There were no members of the public wishing to address the Board.

#### BOARD MEMBER COMMENTS

Mr. Kernan informed the Board of a development in South Jersey where HDP pipe was installed. The pipe is now failing. Video shows that about half of the pipe is in bad condition. It is not known at this point whether this is a manufacturing or an installation problem. The pipe is fracturing and, based on the video, appears to be brittle. In response to a question from Mr. Maser about the loads to which the pipe is subjected, Mr. Kernan indicated that most of the pipe is not under the street and there is no unusual loading. Mr. Kernan agreed to keep the Board informed as causes for this pipe failure are determined.

#### ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 11:14 a.m.

Respectfully submitted,

Amy Fenwick Frank  
Secretary to the Board

# NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

**Meeting Minutes of June 16, 2011**

## LOCATION

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

## ATTENDANCE

### **Board Members:**

Robert Kirkpatrick, Chair  
Joseph Doyle  
Valerie Hrabal  
Richard Maser  
Edward M. Smith  
Janice Talley

### **DCA Staff:**

William Kramer, Acting Director, Division of Fire Safety  
Amy Fenwick Frank  
John Lago  
Michael Whalen

### **Guests:**

Barry Chalofsky	New Jersey Department of Environmental Protection
Susan Weber	New Jersey Department of Transportation
Timothy Kernan	New Jersey Society of Municipal Engineers
John Showler	Department of Agriculture, Soil Conservation
Elizabeth George-Chenigra	NJ Builders Association
Jason Kasler	NJ Planning Officials

## CALL TO ORDER

Mr. Robert C. Kirkpatrick, Jr., Chair of the Site Improvement Advisory Board, called the meeting to order at 10:01 a.m.

## ROLL CALL

The roll was called and attendance was duly noted for the record. Chairman Kirkpatrick welcomed the new members, Joseph Femia and Janice Talley. Chairman Kirkpatrick then recognized Barry Chalofsky of the Department of Environmental Protection (DEP) who is retiring. The Chairman stated that the civility Mr. Chalofsky brought to the table would be missed.

### 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 Asbury Park Press, The Press of Atlantic City, and The Courier-Post of Camden.

### APPROVAL OF MINUTES

Chairman Kirkpatrick asked whether there were any corrections to the minutes of the October 14, 2010 meeting. There were none. A motion to approve the minutes was made and seconded. All were in favor.

### OLD BUSINESS

#### **A. Adoption of Changes to the Residential Site Improvement Standards**

It was noted that the Department no longer prints copies of the rules. A link to the currently adopted version of the rules is available on the Division's webpage. A summary of the changes adopted on May 16, 2011 also is posted on the Division's webpage. The summary of changes is to be sent to the Board. (*Note: A link to the summary was sent to all members of the Board on July 7.*)

There was a brief discussion of the availability of old versions of the rules. It was pointed out that there are end notes in the New Jersey Administrative Code that give the history of the amendments to each section.

#### **B. New Jersey Stormwater Best Management Practices (BMP) Manual**

Valerie Hrabal, Chair of the Stormwater Committee, reported on the status of amendments to the DEP's BMP Manual. The comment period for the draft amendments posted at njstormwater.org has expired, but the changes have not yet been adopted. The most significant change currently under consideration is the one addressing constructed gravel wetlands. She added that the DEP wants to make the BMP Manual a technical manual, a move that will take the BMP Manual a step closer to being a rule. Chairman Kirkpatrick noted that the Board is in agreement with the goal of this move.

Mr. Chalofsky explained that the concept behind the BMP Manual was to put frequently asked questions into a guidance document; the DEP wanted to have in one place a manual that had all of these technical issues addressed. The Barnegat Bay Ten Point

Plan involves the retrofit of existing basins in order to provide removal of nitrogen. The DEP needed to devise a standard that would be most effective. This is breaking new ground as no standard currently exists. He stated that the DEP is not adopting this standard in the BMP Manual yet. It is to be used as a standard design for the distribution of the funds available for retrofit of basins at Barnegat Bay. As with all of the BMP's, outside of its use for the Barnegat Bay retrofits, it is one of many BMP's that may be used.

### **C. Stormwater Rule Readoption – Department of Environmental Protection**

Barry Chalofsky reported that DEP had gotten an 18 month extension on the expiration of the stormwater rules. With the recent passage of a statute extending the expiration date of all rules by two years, the DEP now has 3-1/2 years to review, revise and readopt the stormwater rules before they expire. The Commissioner of DEP undertook a sweeping initiative to work with stakeholder groups to review all of the Department's rules and programs. There was significant push back from the environmental community and concern was expressed that too many things were going on at once. The Commissioner has declared a temporary hiatus on the review of rules to identify priorities. The review process will continue once the Commissioner has identified which programs will be the top priorities.

## NEW BUSINESS

### **A. Street Width and Fire Department Vehicle Access**

Chairman Kirkpatrick posited that fire department vehicle access should not affect street widths. Fire lanes are fire lanes; they are not access roads. The State cannot have two bodies regulating the same issue with different requirements. William Kramer, Acting Director of the Division of Fire Safety, identified the biggest issue as the discrepancy between the adopted State Fire Prevention Code, N.J.A.C. 5:70-3, and the Residential Site Improvement Standards. Michael Whalen read the definition of "fire lane" and of "fire apparatus access road" from Chapter 5 of the New Jersey edition of the International Fire Code. A fire lane is a designated lane; it is not an access road. It is the second definition, fire apparatus access road, that is causing the problems at the local level. Chairman Kirkpatrick said this must be fixed. Cul de sacs are restricted to a certain ADT. The Fire Code requirements should cover certain emergency access roads, not the public streets. He stated that 20 feet is a reasonable width for an access road. It is not a public street.

Mr. Kramer noted that street widths and turning lanes have become an issue in providing adequate protection for new developments. This issue is very important to the fire service. He agreed there cannot be conflicting standards. Mr. Maser asked whether the definition that had been read is national. He was told it is. Mr. Maser said this affects turning radius more than street width. Chairman Kirkpatrick observed that vehicles cannot stay in their own lane on a right turn in any town with a 25 ft. turning radius. Emergency vehicles are not restricted to their own lane. Mr. Maser said that the concern is more the single access point. Ms. Hrabal pointed out that the public

comment received from John Drucker is specific to parking lots. Mr. Kramer said that turning radius becomes an issue if the street does not have mountable curbing. He cited the example of a development with roundabouts and Belgian block curbing. Fire apparatus cannot negotiate such turns and curbs. He added that fire companies cannot take one piece of apparatus past another with a street width of 18 feet. He pointed to the need for a dialog on this issue.

Chairman Kirkpatrick said this issue should be referred to the streets committee. A reasonable recommendation from both parties is needed. Mr. Doyle noted that the information being received to make a judgment is very scant. He has attended meetings where the fire department comes with back-up information and rational arguments. For this debate, he would like additional information from the fire service defining their needs. Chairman Kirkpatrick agreed and suggested that Mr. Whalen work with the streets committee on this issue.

### **B. Soil Compaction Rule Proposal – Department of Agriculture**

John Showler of the Department of Agriculture reported on this issue. He said that the Department had initiated a process for revising the rules, and had readopted the rules without change while the review process is being undertaken. The soil compaction rules are the result of new legislation. The Department has been directed to amend the erosion control standards to provide for remediation on construction sites. Valerie Hrabal represents the Site Improvement Advisory Board on the group reviewing and advising on these standards. The group has looked at the causes of soil compaction and the means to alleviate it. Staff will be fitting this into the existing standards for land grading and top soil.

Mr. Showler explained that the soil compaction issue has been addressed in terms of three areas on a site. The first is the soil stabilization area which will be exempt. Examples include the soil within 10 ft. of the building foundation, underneath driveways or road beds. The second is the soil restoration area. For soil restoration areas of more than an acre, there will be testing of bulk density. For those of an acre or less in area, pushing a wire into the subsoil will be considered adequate. The third category calls for the restoration of deep infiltration capacity, including a requirement for six inches of good quality topsoil. (Five inches had been suggested; six inches is now required.) For these deep infiltration areas, the subsoil must be brought up to elevation minus six inches. Then the topsoil is spread. The requirements to alleviate compaction in these areas include going down 12 inches, making one pass, lifting that layer, and dropping and breaking it.

Chairman Kirkpatrick asked whether this is all being done to validate the pre- and post-run off numbers. Mr. Showler responded that the NRCS modeling does not totally account for compaction. This assumption was the basis for the legislation, but there are no hard data to support it. The Department will be sending draft amendments to stakeholder group. The State Committee will be meeting in July. Then the rule will be sent to the New Jersey Register as a proposal for public comment. The Department hopes for adoption by the end of the year.

Ms. Hrabal noted that no credit is given for amending the soil. If credit were given in the form of a smaller detention basin, this would offset some of the added costs of compliance with the soil compaction requirements. These added costs have not been yet been identified or quantified. There are a number of issues that will need to be addressed, including where the compost will come from, how much it will cost, whether it is to be mixed on site or purchased premixed, etc. She added that one of the things that gives the highest values is time. With maintenance, the soils do well. If cars are parked there every weekend, then they don't do so well. She also noted that soil compaction is related to detention basin bottoms and she asked whether these rules would apply to basins. Mr. Showler responded that the rules would apply to basins in deep infiltration areas.

In response to the question on cost, Mr. Showler said that one district came up with a cost of \$16,000 per acre. Ms. Hrabal stated that this contradicts the intent and purposes of the Uniform Subdivision and Site Improvement Act.

### **C. Membership Vacancies – Appointment of New Members**

Chairman Kirkpatrick again welcomed new member Janice Talley, appointed to the public sector planner seat on the Board and new member Joseph Femia, appointed to represent the County Engineers on the Board. It was noted that Joseph Doyle retired from the New Jersey Planning Officials (NJPO) on March 4, but continues on the NJPO Board and will be serving out his term on the Site Improvement Advisory Board. Chairman Kirkpatrick announced that he is resigning as the representative of the New Jersey Society of Municipal Engineers and that he will be replaced by Timothy Kernan. Chairman Kirkpatrick observed that Professor Thomas Olenik is now the only remaining charter member.

### **D. Committee Membership**

Chairman Kirkpatrick noted that committee membership should be reviewed in light of the changes in Board membership. Mr. Maser made a motion, which was seconded by Chairman Kirkpatrick, naming Joseph Doyle as Interim Chair of the Board. Mr. Doyle indicated that he would be willing to serve in this capacity. All were in favor. Mr. Doyle will undertake a review of the committee membership with the new Board members in place.

### **PUBLIC COMMENTS**

Chairman Kirkpatrick asked whether there were any members of the public who would like to address the Board. There were none.

### **BOARD MEMBER COMMENTS**

Mr. Doyle introduced Jason Kasler, the new Executive Director of the New Jersey Planning Officials.

Mr. Maser acknowledged the Chairman's hard work during his tenure on the Board and stated that he had been instrumental in everything the Board has accomplished. Chairman Kirkpatrick then recognized the hard work done by his fellow Board members. Speaking on behalf of the staff, Ms. Frank thanked the Chairman for ably shepherding the Board since its first meeting. She noted that, through working with him, she had learned that municipal engineers are public servants in the truest and best sense. Chairman Kirkpatrick said that Bill Connolly (retired Director of the of the Division of Codes and Standards) was one of the best people he had worked with as well as a consummate professional and that Mr. Connolly had spread that down to the staff.

#### ADJOURNMENT

There being no further business before the Board, Chairman Kirkpatrick called for a motion to adjourn. The motion was made by Mr. Maser and seconded by Ms. Hrabal; all were in favor. The meeting was adjourned at 11:07 a.m.

Respectfully submitted,

Amy Fenwick Frank  
Secretary to the Board