



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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EILEEN SWAN
Executive Director

MEMORANDUM

To: State Planning Commission Members
From: Eileen Swan, Executive Director
Date: July 14, 2006
Re: Public Participation Conference Call Summary

At the May 17, 2006 State Planning Commission (SPC) meeting, the Office of Smart Growth (OSG) was directed to convene a conference call with SPC members to discuss public participation opportunities within the Plan Endorsement process and to develop suggestions for improvement.

On June 2, 2006, OSG conducted a conference call to discuss the aforementioned matter. Members and Staff present on the call included: John Eskilson, Marilyn Lennon, Liz Semple, Eileen Swan, Ben Spinelli and Danielle Stevens.

Discussion focused on the following subject areas: opportunities for public hearings, outreach opportunities, notice to property owners, and display of agency comments on the OSG website. It was unanimously agreed that the suggestions listed below regarding opportunities for public hearings and outreach should be referred to the SPC with a recommendation that they be incorporated into a revision of the State Planning Rules and the Plan Endorsement process in order to improve the efficiency and predictability of the process and to increase public outreach and participation. Consensus was also reached among the committee that revisions should not be made to the current rules and practice pertaining to notice to property owners and availability of agency comments on the OSG website as described below.

Opportunities for public hearings:

Under the current State Planning Rules petitioners are not required to conduct a public hearing(s). The current process is as follows:

Petition Submission:

When a petitioner submits a petition for Plan Endorsement, the petitioner is required to authorize submission of the petition by resolution of the governing body at a **public meeting** for which public notice is provided pursuant to the State Planning Rules. The petitioner is also required to submit meeting minutes of each public meeting during which the petition was reviewed and of the meeting at which the resolution endorsing the petition was approved. The review and authorization of the petition can simply be an agenda item at a regularly scheduled meeting of the governing body.

Completeness Determinations:

OSG may, at the discretion of the Executive Director, conduct a **public hearing** to receive testimony on a petition within the State and Federal agency 45-day review period which begins once a petition is deemed complete by OSG. The Office of Smart Growth is required to conduct a **public hearing** on the petition *only* if OSG receives a written request for such a hearing from the petitioner, the governing body of a municipality or county which is not the petitioner, or at least 10 written requests from other governmental agencies, advocacy groups or individuals with a demonstrated interest in the petition within 10 days of the Office of Smart Growth providing notice that the petition was deemed complete. OSG has, however, made it standard practice to grant the public hearing if the Office receives one request from an advocacy group or organization.

It should be noted, however, that a public hearing is not conducted on every petition. In addition, it should also be noted that the burden of coordinating and conducting the public hearing is the responsibility of OSG, not the municipality.

In the new process that would be effectuated through a rule change, the petitioner would be required to conduct two (2) public hearings. This process is proposed as follows:

Petition Submission:

The petitioner would be required to conduct a **public hearing** on the petition prior to submitting the petition for Plan Endorsement and would be required to provide requisite notice and to submit meeting minutes of the meetings/hearings where the petition is reviewed and the hearing where the resolution authorizing submission of the petition is approved. OSG should be invited to attend these meetings.

Consistency Determination:

OSG is working internally to draft revisions to the State Planning Rules. One recommendation is to require the petitioner to conduct a second **public hearing** once the petition has been recommended as consistent with the goals, policies and strategies of the State Plan and OSG is ready to prepare a Report to the State Planning Commission to that effect. Requiring the petitioner to conduct a second public hearing would provide transparency into the public process as elements of the petition may change from the time of submission. Also it is more appropriate that the local governing body conduct the public hearing on their plan rather than a state agency. OSG should be invited to attend these meetings.

Opportunities for public outreach – such as press releases:

It was also agreed that OSG should issue generic press language to petitioners for their use to publicize elements of the process – such as public hearings. This can be done now and does not require a revision of the State Planning Rules.

Notice to property owners:

Public comments have been raised about whether the notice required per the State Planning Rules is adequate and whether or not OSG should be required to provide notice to individual property owners regarding proposed changes to the State Plan Policy Map. After discussing the issue, the group concurred that the process pertaining to notice should not be changed to include notice of individual property owners. The group felt that requiring the second public hearing will alert the public of any planning area changes that may affect them. The second public hearing will also provide the public with an additional opportunity to review the petition and provide commentary. In addition, the group felt that the provisions within the Municipal Land Use Law (M.L.U.L.) govern the obligation to notify

individual land owners of certain changes that may affect their property, and that responsibility rests with the local governing body.

Agency comments on website:

A comment was raised on the conference call as to whether or not state agency comments on completeness and consistency should be posted on the OSG website. These comments are available for review as they are part of the files maintained for petitions. OSG believes it better serves the petitioner and the public to post the final state agency response, so as to avoid any confusion, as some comments that may be included in state agency comments may not be included in the final letter to the petitioner. The final letter is the result of the collaborative efforts of state agencies, which include all appropriate comments and is further reviewed by all state agencies.

ES:ds