



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS

STATE PLANNING COMMISSION

OFFICE OF SMART GROWTH

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Governor

CHARLES A. RICHMAN
Acting Commissioner

BENJAMIN SPINELLI
Executive Director & Secretary

**New Jersey State Planning Commission
Plan Implementation Committee
Minutes of the Meeting Held August 22, 2007
Mary Roebing Building
Trenton, New Jersey**

CALL TO ORDER

Chair John Eskilson called the meeting of the Plan Implementation Committee to order at 9:40 a.m.

Committee Members Present

John Eskilson, Chair, Public Member

Tom Michnewicz, Public Member

Ed McKenna, Public Member

Liz Semple, Representative of Commissioner Lisa Jackson, Department of Environmental Protection

Susan Weber, Representative of Commissioner Kris Kolluri, Department of Transportation

Roberta Lang, Representative of Secretary Charles Kuperus, Department of Agriculture

Marge DellaVecchia, Representative of Acting Commissioner Charles A. Richman, Department of Community Affairs

The Honorable Robert Bowser, Mayor of East Orange, Public Member

Committee Members Not Present

Michele Byers, Public Member

Debbie Mans, Governor's Office, Smart Growth Ombudsman

Marilyn Lennon, Public Member

Others Present

Benjamin Spinelli, Executive Director, Office of Smart Growth

Tracie Gelbstein, Deputy Counsel, Office of Smart Growth

Courtenay Mercer, Planning Director, Office of Smart Growth

Danielle Esser, Policy Advisor, Office of Smart Growth

Daniel P. Reynolds, Deputy Attorney General, Division of Law

Others-Attachment A

APPROVAL OF MINUTES

Chair Eskilson asked for a review of the minutes. Liz Semple pointed out that Bill Purdie was incorrectly referred to as from DOT. OSG agreed to double-check and make sure that this mistake is fixed. The group agreed to hold the minutes for approval until the next meeting as members asked for additional time to review the minutes.

CHAIR' S COMMENTS

Chair Eskilson had no comments at this time.

EXECUTIVE DIRECTOR'S REPORT

Ben Spinelli updated the group regarding the status of Cross-acceptance. The staff-to-staff meetings are complete. There will be two public hearings next week with Hunterdon and Morris Counties, and Camden County is the only public hearing left to schedule which will be in September.

Ben Spinelli also updated the body regarding the status of a Memorandum of Understanding (MOU) between the Highlands Council and the Office of Smart Growth. OSG and the Highlands Council have been coordinating together and will have a draft MOU to present to the Commission soon.

John Eskilson indicated his support for the speedy creation of the MOU to alleviate some of the confusion that is being experienced, particularly by the municipalities in the Highlands planning area and municipalities with designated centers in the Highlands region. Chair Eskilson stated that he feels that it is important for the SPC to be part of this discussion as soon as possible.

Ben Spinelli mentioned that OSG is working with the Meadowlands to prepare a plan for endorsement for all 14 towns in the Meadowlands, or 13 towns, excluding Jersey City, since it is an Urban Center.

Ben Spinelli also provided an update regarding the status of Plan Endorsement. OSG, in coordination with the state agencies, has been working to revise the Plan Endorsement Guidelines and associated documents for some time, and we hope that the committee will move the Guidelines forward to the full Commission for consideration at the September meeting, Ben mentioned that OSG has been discussing the proposed new plan endorsement process when meeting with towns and is eager to have the Guidelines adopted to formalize the new process, keep the process moving forward and address some of the confusion between how municipalities should approach the plan endorsement process.

Ben Spinelli also briefly mentioned the draft proposal regarding the section on "Period of Endorsement" in the State Planning Rules. There are many centers that will expire in 2008 and this proposal seeks to provide an opportunity for municipalities with centers expiring in 2008 to initiate the plan endorsement process and receive a temporary re-establishment of a center, conditioned on compliance with an agreed-upon Action Plan and MOU.

PRESENTATION

Brief Overview of New Plan Endorsement, Plan Endorsement Guidelines and State Planning Rules, by Tracie Gelbstein, Deputy Counsel, OSG

Tracie Gelbstein provided a brief overview of the proposed new plan endorsement process. Tracie Gelbstein responded to concerns raised by the Committee, including the makeup of the advisory committee, the requirement for a petition for substantive certification to COAH, and the concern over wastewater and water capacity.

Committee Comments on Draft Plan Endorsement Guidelines and State Planning Rules

Ed McKenna suggested the Advisory Committee include at least two (2) members of the public that are not elected and not appointed.

John Eskilson asked that staff clarify the introduction to not infer that a petition will be evaluated for consistency with neighboring plans.

Liz Semple of the Department of Environmental Protection (DEP) requested that OSG consider the DEP comments that were submitted. DEP also requested that the criteria for external consistency also include consistency with state agency regulations, standards, programs and policies be added to both the Guidelines and Rules.

John Eskilson asked DEP to describe how the Water Quality Management Plan (WQMP) requirement will work on a municipal level. Nick Angarone of DEP responded that the WQMP and the Plan Endorsement processes will mirror each other.

Roberta Lang of the Department of Agriculture had some formatting comments and stated that she would send them to OSG staff.

Marge DellaVecchia added that the COAH staff will be critical to the review of the housing component. Petitioners for plan endorsement will be expected to submit a “good-faith” petition for substantive certification.

Tom Michnewicz stated that it is imperative that the benefits for going through the process be real.

Ed McKenna stated that he felt that the plan endorsement process should amount to be a “green light” down the boulevard, meaning that once all the planning has been done, benefits should flow as appropriate.

Marge DellaVecchia suggested the need for the creation of a Plan Endorsement Ombudsman, a high-level person in the Front Office to “quarterback” petitions and ensure that petitioners receive appropriate benefits.

Ben Spinelli added that OSG is already working with the Office of Economic Growth (OEG) on a joint application process.

Public Comment on Draft Plan Endorsement Guidelines and State Planning Rules

David Troast, Planner for Sparta Township, expressed concerned regarding having additional members of the public on the Advisory Committee.

Maryanne Smith, Township Manager of Hardyston Township, expressed concern about adding language regarding consistency with agency programs and rules as they change often. If the language is included, Ms. Smith requested that language be included that grandfathers growth areas (previously designated) in order to provide value in the process. Maryanne Smith also requested that the State investment in plan endorsement match the level of investment that municipalities are being asked to expend to participate in the plan endorsement process.

Eric Snyder, Sussex County Planning Director, commented that planning should come before regulation. Agencies and counties need to communicate with one another. The permitting process should not undermine good planning, and likewise, no permits should be issued for poor planning.

Joanne Harkins, Director of Land Use and Planning for the New Jersey Builders Association (NJBA) inquired about how should builders sewer hamlets and villages and asked whether the community visioning created through the proposed plan endorsement process must be consistent and adopted as part of the municipal master plan.

Ben Spinelli responded that the vision statement must be consistent with and adopted as part of the municipal master plan.

Jay Corbalis of New Jersey Future commented that New Jersey Future supports linking the COAH petition for substantive certification to the plan endorsement process, but expressed concern regarding the municipal public health impacts plan as public health impacts adversely affect all people regardless of income.

Liz Semple of DEP commented that the DEP comments requested that this requirement be removed and changed back to Environmental Justice Inventory.

Jay Corbalis also commented that clarification is needed to determine what represents “significant” habitat that would require a municipality to create a habitat conservation and protection plan. Jay Corbalis also mentioned that NJ Future feels that habitat conservation and protection is a regional issue that would require more involvement by the counties.

Liz Semple stated that the habitat conservation plan language will be tweaked so that the objective is reached without necessarily creating a plan.

Candy Ashmun, representing the New Jersey Conservation Foundation, commended that staff of OSG and the Plan Implementation Committee (PIC) and provided numerous comments on the Plan Endorsement Guidelines. Candy Ashmun offered the following comments:

- It will be easy to educate the public during this process and the visioning process will be an important educational tool for both the planning board and the public.
- The Plan Endorsement Guidelines should reference specific State Plan policies.
- The Guidelines do not mention the “official map” of a municipality anywhere, but should refer to it.
- Advisory Committee membership should be exclusive to the appointed representation. In other words, the representative of the planning board should not also be a member of the governing body.
- The Center extension rule should have a provision for a public hearing. There is no need for a provision for a complaint by the petitioner.

Helen Heinrich of the New Jersey Farm Bureau provided her support to include more than one public member on the Advisory Committee, and also it would be better if the makeup of the Advisory Committee is an odd number. Helen Heinrich also commented on the visioning process, stating that specific guidelines on visioning would be helpful. For example, a rural community must vision for a future with agriculture if it is actively preserving farmland.

Helen Heinrich also offered comments regarding the requirement for a stream corridor protection plan and a habitat protection plan, calling the habitat protection plan requirement a slippery slope since there are no rules that govern this requirement presently.

Helen Heinrich also questioned whether all municipalities will have to prepare an Economic Development Plan

Dianne Brake, President of Plan Smart NJ, offered the following comments:

- The Rules and Guidelines should provide the path to change land use patterns to achieve the nine (9) goals identified in the State Planning Act. We need overall change in land use patterns to achieve desired outcomes. We need to look at outcomes rather than just input. Desired land use patterns should be the basis for regulatory programs.
- What is the status of the Infrastructure Needs Assessment (INA)? We need to know the capacity of our infrastructure to plan for centers. We need a measurement, like the “Transit Score” to assess current conditions.
- How is the build-out being performed? Is there a common methodology? This needs to be specified in the rules.
- Although the benefits are organized, petitioners need to know what needs to be done to receive these benefits. The benefits need to be operationalized goals, which can be tools to incentivize and achieve desired outcomes.

Sue Dziamara, Planning Director of Hunterdon County, expressed her concern regarding the municipalities that began plan endorsement before these changes are adopted. She stated that there has been a moving target, flexibility is needed, and she would suggest using the Planning and Implementation Agreement (PIA) to implement many of the new requirements and to recognize efforts.

Paul Chrystie, Executive Director of the Coalition for Affordable Housing and the Environment (CAHE) stated that he feels that the process has been open and inclusive. It is important to differentiate between theoretical and real impacts. The requirement for a petition for substantive petition to COAH prior to endorsement is an important requirement and should be kept. The revised COAH rules will be coming soon, there will be still be a growth share requirement, it may simply be calculated differently. It is important to keep moving forward.

Paul Chrystie offered the following additional comments:

- Page 13 of the Guidelines states that there will be a much stricter application of the State Plan Criteria. There cannot be multiple levels of consistency. This should be clarified.
- There are no benefits for towns that go through Plan Endorsement. The Benefits Chart lists 70 benefits. Only 14 of the benefits are directly linked to Plan Endorsement. 56 of the benefits are the equivalent of having the form filled out. DEP discretionary aid is not tied to Plan Endorsement.
- Question on capacity – How can the State come up with a way to make it more economical to grow in places where we would like to see growth occur?
- Rule comment – Land use changes occurring outside of the purview of the PIA should be flagged right away rather than during the annual reporting period.

Jim Kilduff of Franklin Borough in Sussex County stated that he likes that the Rules allow a range of 4-10 people on the Advisory Committee and thinks this provision should stay as it is currently written. Mr. Kilduff stated that there is big problem if a town can go through plan endorsement but still not be able to receive permits from DEP. Mr. Kilduff stated that a real benefit to plan endorsement would be a prioritized and accelerated permit review for plan endorsed communities.

Mirah Becker, Supervising Planner of the Middlesex County Planning Department expressed concern over the Water Quality Management Plan Rules and feels that Counties should not be caught in the middle of municipal plan endorsement requirements.

Tim Dillingham, Executive Director of the American Littoral Society stated the need for language in the Rules that requires consistency with the State’s environmental rules and regulations.

Jaime Sunyak of Schoor DePalma expressed concern over the “absolute” requirements in the Plan Endorsement Guidelines. Ms. Sunyak stated that these requirements need to be determined on a case-by-case basis and determined through a working agreement. Ms. Sunyak also stated that it would be beneficial if the MOU was signed at the beginning of the process. Ms. Sunyak also mentioned that the

Economic Development Plan is the only benefit related requirement. The benefits should be linked to action items.

Barbara Palmer of the Association of New Jersey Environmental Commissions (ANJEC) asked about the next steps.

Committee Recommendation on Draft Guidelines and Rules

Ed McKenna stated that he would like to move that the PIC move the Guidelines and Rules to the full Commission for consideration. The staff will incorporate comments from this meeting and release for the State Planning Commission in September, unless it is determined that the changes are substantive, in which case the Guidelines and Rules will come back before the PIC.

The proposal regarding period of endorsement and the extension of centers will be brought back to the PIC in September for discussion.

Mayor Bowser seconded Ed McKenna's motion.

The Committee unanimously agreed to move the Guidelines and Rules to the State Planning Commission in September.

The Committee also agreed to make a change to the makeup of the Advisory Committee to include at least two (2) members of the public that are not elected or appointed. Additionally, the Committee agreed to add language to rule regarding consistency, specifically that "consistency with the State Development and Redevelopment Plan and that satisfy state agencies that their respective issues are adequately addressed."

General Public Comment

Maryanne Smith, Township Manager of Hardyston expressed her disapproval of the Deputy Attorney General's opinion regarding the Highlands relationship to the State Plan and the State Planning Commission. Ms. Smith stated that she feels that petitions for plan endorsement in the Highlands Planning Area should still go the State Planning Commission.

Eric Snyder, Sussex County Planning Director, stated that the planning element should be taken into account in the Highlands Planning Area.

David Troast, Planner for Sparta Township, stated his confidence in Eileen and her ability to lead as Director of the Highlands Council. However, Mr. Troast also stated his support for extension of the centers and the need for even additional time to do the type of involved work that will be requires as part of the new plan endorsement process.

Tim Dillingham, Executive Director of the American Littoral Society stated that the extension of designated centers should be parallel to the extension that was provided to the CAFRA centers. Mr. Dillingham also stated that safeguards should be put in place regarding any extension of centers. Such centers should be clipped to remove any environmentally sensitive features.

Ben Spinelli responded that OSG is working on language to address this concern and this language will be reflected in the new proposal for next month's PIC meeting.

Final Committee Member Comment

Ed McKenna addresses the audience and stated that often times that State Planning Commission states that they need real "teeth" to get things done and affect change. In order to address this, Mr. McKenna

suggested reconvening the Legislative Subcommittee of the Commission. Mr. McKenna added that it will probably take two-to-three meetings to determine what legislative changes are needed to do what we need. The next step will be to meet with members of the Legislature. Mr. McKenna stated such changes will help us be more efficient and accomplish the goals of the State Plan. Mr. McKenna asked that suggestions be passed along to Ben Spinelli as soon as possible.

With no further comments from the public or committee, the meeting was adjourned at 1:10 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Benjamin L. Spinelli". The signature is written in a cursive style with a horizontal line underneath the name.

Benjamin L. Spinelli
Secretary and Executive Director
Dated: 9/17/07