

**New Jersey State Planning Commission
Minutes of the Meeting Held April 20, 2005
Thomas Edison College
Prudence Hall
101 West State Street
Trenton, New Jersey**

CALL TO ORDER

Christiana Foglio, Chair at 9:41 a.m, called the April 20, 2005 meeting of the New Jersey State Planning Commission to order.

OPEN PUBLIC MEETINGS ACT

Dan Reynolds, Deputy Attorney General announced that notice of the date, time and place of the meeting had been given in accordance with the Open Public Meetings Act.

ROLL CALL

Members Present

Michele Byers, Executive Director, New Jersey Conservation Foundation
Joanna Dunn Samson, Designee for Commissioner Bradley Campbell, Department of
Environmental Protection
John Eskilson, Public Member
Patrick Gillespie, Smart Growth Ombudsman (arrived 10:55 a.m.)
Monique Purcell, Designee for Secretary Charles Kuperus, Department of Agriculture
Peter Lazaropolous, Public Member
Marilyn Lennon, Public Member
Brent Barnes, Designee for Commissioner John Lettiere, Department of Transportation
Manny Fernandez, Designee for State Treasurer John E. McCormac, Department of
Treasury (arrived 9:50 a.m.)
Thomas Michnewicz, Public Member
Lauren Moore, Manager, Office of Business Advocate & Information, Commerce &
Economic Growth Commission
Christiana Foglio, Chair and Public Member

Not Present

Susan Bass Levin, Commissioner, Department of Community Affairs
Edward McKenna, Jr., Public Member
George Pruitt, Public Member

Others Present (See Attachment A)

PLEDGE OF ALLEGIANCE

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

APPROVAL OF MINUTES

Chair Foglio asked for a motion to approve the minutes of the February 16, 2005 meeting. John Eskilson so moved and Joanna Samson seconded the motion. Chair Foglio asked for a roll call vote. Ayes: (9) Michele Byers, Joanna Dunn Samson, John Eskilson, Monique Purcell, Peter Lazaropoulos, Brent Barnes, Thomas Michnewicz, Lauren Moore, Christiana Foglio. Nays: (0). Abstains: (1) Marilyn Lennon.

CHAIR'S COMMENTS, Christiana Foglio, Chair

Chair Foglio welcomed Lauren Moore and Pat Gillespie to the Commission and noted that she looks forward to working with them.

EXECUTIVE DIRECTOR REPORT, Maura McManimon, Executive Director

Ms. McManimon also welcomed Lauren Moore and Pat Gillespie to the Commission. She reported that the Office was busy with holding Cross-acceptance meetings with the State agencies and that the Office had held preliminary discussions with Bergen and Essex Counties and that a meeting had been scheduled with Mercer. She also noted that the Office had received 17 final county Cross-acceptance reports. She then introduced the following new staff members Kathleen Pental, who had joined the General Counsel and Policy Unit, Kim Nagy, a professional writer, who will be taking a broad based look at the State Plan and evaluating it from a user friendly perspective, and how it could be more of a how to guide and policy document. In addition, she has developed a State Plan survey that will be sent out in order to evaluation how the public utilizes the State Plan. Lastly, Ms. McManimon introduced Ann Waters, a planner, who has joined the Planning Unit.

Ms. McManimon deferred to Danielle Stevens to give a brief update on where the Office was with regards to Plan Endorsement.

Ms. Stevens reported that the Office has received four petitions for initial Plan Endorsement, and that Asbury Park would be discussed later. Since the last State Planning Commission meeting the Office had held seven pre-petition meetings; four of them being Transfer of Development Rights (TDR) towns and the three other being Ocean City (Cape May County), West Amwell (Hunterdon County) and Millville City (Cumberland County). The Office expects to have several more pre-petition meetings scheduled next month, specifically Southern Western Cumberland County, Lakewood and Jackson in Ocean County, Monmouth County Bayshore and Sussex County coming in soon.

John Eskilson noted that the Plan Implementation Committee (PIC) has officially entered the era of Plan Endorsement. The very exciting application of Asbury Park was heard at the last PIC meeting. It is a petition that includes around seven areas of redevelopment; there was a great deal of excitement in the public response as well as the PIC. The discussion on the petition will continue at the April 27th meeting. Mr. Eskilson noted that he would not be able to attend, but asked that the other PIC members move it forward. He noted that he was hoping to get it through the PIC with only one more meeting.

Chair Foglio questioned Mr. Eskilson if he felt it would take more than two PIC meetings to actually get through Plan Endorsement petitions. Mr. Eskilson felt that it would depend on the complexity of each petition. He noted that the staff had done a terrific job and with the kind of staff/municipal/county

interaction before the petitions go before the PIC goes a long way towards moving the applications expeditiously. However, with the appropriate amount of upfront work hopefully, it would only take one meeting, but certainly within two depending on the level of complexity of the application.

Courtenay Mercer then provided an update on the TDR demonstration projects. She reported that on February 9th the TDR programs were announced. Six are non-Highlands programs and three are Highlands related programs. The purpose was to get these programs through in a timely manner hopefully, get through PE this fall, so they can be models for municipalities in the future. A booklet will be developed that has model ordinances, the different costs associated with the program, how long it takes, and some snags that a town could run into. She briefly explained each town's objectives for its TDR program, whether or not they had come in for a pre-petition meeting and the status of their planning documents. She noted that the non-Highlands towns had received grant funds from the Office of Smart Growth to assist in the planning process and that the three Highlands towns would receive assistance from the Highlands Planning Council.

John Eskilson asked for clarification on Oxford and opting "in". Ms. Mercer noted that it depends on the timing and how long it takes them to plan the project. If they are done around the same time that the Highlands Regional Plan is done, it would be easier for them to opt into the Highlands Plan. The Commission will ultimately endorse the Highlands Plan. Ms. Mercer explained that the Highlands Council is creating a plan for the entire region both preservation and planning area, so the planning area towns can opt into what the Council has done for the planning area. Planning area towns do not fall under the DEP regulations. When they opt in they change their master plan and ordinance documents to match the regional plan, then they pass their own ordinances to get them up to DEP regulations that apply in the preservation area.

Discussion of Statewide Policy Issues

Chair Foglio introduced the next item on the agenda the Statewide Policy Issues. She noted that these issues were raised during the staff to staff reviews of the county reports.

Ms. McManimon noted that the discussion would be in two segments the first being issues that have come up in the interagency discussions in terms of policies that we wanted to bring into the Cross-Acceptance meetings with the counties. Some of the issues are mapping conventions and some are broader policy issues. The second half of the discussion concerns that Statewide Policy Issues that have been raised in the county reports, that discussion is more about setting up a process for the public and other counties to comment on all the of the issues.

Bill Harrison noted that some of the issues are in response to what counties have submitted in their Cross-Acceptance reports and that the Office felt it really needed a statewide approach right away and some issues were identified by the State agencies. Mr. Harrison then proceeded to go through each issue.

Brent Barnes asked that as point of order if the issues were a discussion item that would be taken under advisement, or was the Commission making a decision on them today. Chair Foglio responded that no official action was being taken today and it was intended to highlight the issues that have come up. She felt there would be dialogue about some of the issues and should the Commission after hearing the level of discussion decide that there should be action; action could be taken at the next meeting and propose some level of resolution.

Mr. Harrison continued with the first issue—Parks and Natural Areas. He explained that what the Office of Smart Growth tried to do when the Preliminary State Plan was released was to identify the additional parkland based on files from DEP. There is a lot of parkland particularly at the municipal

level that was not reflected on the DEP file, because the municipalities had not given that information to DEP. OSG's basic recommendation is that as municipalities and counties identify and acquire additional publicly dedicated land it should be shown on the State Plan Map as parks.

Mr. Eskilson questioned if it would be limited to parklands on an open space inventory or was it at the discretion of the municipality and whether there was an implication if it was not on a Recreational and Open Space Inventory (ROSI) and if it is put on is there some attachment that Green Acres would have to the land? Mr. Harrison responded that it would be anything that was publicly dedicated open space and would not have to be on an open space inventory. Mr. Eskilson noted that there are policy issues and the Commission needs to be clear that it doesn't change the rules of engagement with Green Acres and that mapping on the State Plan Policy Map is not a default ROSI listing. Mr. Harrison responded that he agreed and he thinks that a lot of towns are interested in having the land shown, there should not be any policy implication in terms of Green Acres status. When having the conversation that issue should be clear especially when the land was acquired with municipal and/or county funds and not State funds.

Chair Foglio asked how a piece of property that a municipality is petitioning a county to acquire under an open space acquisition program would be treated. Mr. Harrison responded that it would not be shown until it is acquired.

The next issue of Historic and Cultural Sites was discussed. Mr. Harrison noted that there are a number of sites on the current State Plan Map and that in the early Cross-acceptance reports, as well as the later ones, a number of counties were identifying, particularly at the request of municipalities, sites that they wanted to have included. OSG feels that there should be a consistent policy and is recommending that it is those sites and districts that are on the State or national register are the ones that should be shown, not just locally designated sites.

John Eskilson questioned if areas that are mapped by SHPO as eligible for the national or State register—not on the map or on the map? Chair Foglio indicated that they would not be mapped. Mr. Eskilson noted that he would like to have a conversation about whether or not to have them listed.

Michele Byers asked about the process in going through these issues today, the Commission is seeing them for the first time and they are issues that have been raised and we can clearly see that some of them may not generate controversy or need more discussion, but just as a process should we be referring all of these to a subcommittee since they will need more discussion. What is the next step with referral to a committee?

Chair Foglio responded that she would be happy to set up a subcommittee to review the issues, but the Commission should at least know what issues were being raised, the level of the issues being raised and if they really need additional input. Ms. Byers responded that she felt it would be good to go through them today and give the Commission a broad overview of what was being raised but then know that we are going to be referring them to committee for further detailed discussion. Chair Foglio indicated that Mr. Harrison could give the overview and that the Commission could set up a committee for further review.

There was a brief discussion on the importance of having a subcommittee set up since it is a much more comprehensive process than before with much more specific data, new staff and that it is really something the Commission needs to give guidance on a policy level; rather than left to staff. The Commission should be providing some guiding principles. The committee should also be a body representing a variety of perspectives, a developer, municipal, and State agencies.

Mr. Harrison continued his overview with the next issue—Proposed and Identified Centers. He noted that this issue was actually reflecting something that was already done when the Preliminary Plan was released to not show proposed and identified center on the State Plan Map anymore. It has been a source of confusion instead of assistance.

Next, was the issue of the Highlands Region. Mr. Harrison explained that the text flows from the language that is in the Highlands Act as well as the amendments that Act made to the State Planning Act. Once the Highlands Council adopts its regional master plan the State Planning Commission no longer has planning jurisdiction in the preservation area. There did not seem to be any logic to go through a Cross-acceptance process in the preservation area knowing that the Plan adopted by the Highlands Council will replace the State Plan. In the Highlands planning area where the Highlands Council is required to submit its plan to the SPC for Plan Endorsement we felt it was important to update the State Plan. He noted that the Highlands Council staff is receiving copies of the Cross-acceptance reports and other correspondence we are getting so that they can fully participate in the process; they are attending staff to staff meetings with the county representatives and well as internal meetings to discuss those issues. The Office ultimately felt that it needed to proceed in the process as it relates to the Highlands planning area.

Mr. Harrison noted that the Highlands legislation makes clear the need for the Highlands Council to coordinate with SPC and vice versa.

Mr. Harrison explained that the Consolidation of Planning Areas 4 and 4B was brought up when the Preliminary Plan was prepared. When reviewing the information that was received from both Agriculture and the DEP it was clear that in some areas the current mapping of PA 4/4B really was not consistent with the description in the Plan as to what those two planning areas were supposed to be. Discussions among OSG, DEP and Agricultural at the time didn't reach a resolution and it was identified as an issue that was to be discussed during Cross-acceptance. Agricultural and DEP kept working on this issue and came up with a document that they both felt was agreeable as an approach that made the most sense both from an agriculture view and environmental view; that was to combine the two planning areas into one and change its name to Agricultural Rural Planning and not try and say within a broad area 4 there are some areas that are more environmentally sensitive and others classified as 4b but instead to look at it as these are the areas where the largest areas of agricultural use are in the State and want to promote the viability of those uses that are best served by putting them in the same planning area and recognizing through that entire planning area that it is important to protect the environmental resources that are found there.

Monique Purcell noted that the full text was not included in the document and that it could have been a printing error. She also noted that the Department of Agriculture is fully on board with the text.

Ms. Byers commented that she just received the text, reviewed it and had major concerns about it. She felt that it was not something that she would ever vote in favor of. She noted that the language is very slippery slope, it is unclear, and there are some major changes. Ms. Byers indicated that she had spoken with Ms. Purcell, Ms. McManimon and Ms. Samson and she would be happy to sit down and go over her concerns with them and do the best they can to come up with something that is reflective of what her concerns are. She also felt that it was an issue that should to committee. Ms. Byers very much disagreed with collapsing Planning Area 4B into 4, and that if any change like that is made a complete assessment should be done and make the distinction between environmentally sensitive and farmland but the PA4B's should go into PA5.

Ms. Purcell responded that the motivation for doing this; the long-term intention is to move appropriate areas into PA5 if necessary. They were trying to separate that distinction and make that clear

because right now it really isn't. There was a lengthy discussion on this issue of collapsing Planning Area 4/4B. It was decided that it was an issue to be discussed at the committee level.

State Initiated Planning Area and CES Amendments—Mr. Harrison explained there was a lot of discussion as to what information should be reflected on the Preliminary Plan Map and how it should change; the dialogue had not come to conclusion by the time the Preliminary Plan was released. In many cases, the way environmental data was reflected on the Preliminary Plan did not lead to “logical planning lines”. What the agencies have been doing, some of which has been reflected in the County Cross-acceptance reports is to raise issues as to why this line is here or why there is a gap between two features. We are going through and looking at areas where we think the planning area or a CES boundary should be adjusted. We are presenting that to the county when staff to staff Cross-acceptance meetings are held. They can then evaluate it and seek input from their municipalities, where they think it is appropriate to approach a given area, and to come up with a line that makes sense from a planning perspective vs. just the boundary of a wetlands, a boundary of a planning area or a CES.

Lastly was the DEP – Stream Corridor Mapping issue that had come up in many of the Cross-acceptance Reports. The issue is how streams should be dealt with in the State Plan Map. What was done in the Preliminary State Plan is to show the C1 streams by simply a different color; it was not the most visible thing on the map. OSG has received Cross-acceptance Reports in which one town recommended having a CES around a stream and the two other towns in which the stream was located objected to the CES. Other counties are addressing streams with a more broad based approach. However, the approaches have differed significantly among the counties. What DEP has done in response is to propose a consistent statewide approach. What we don't want to do is have a county say we want to have a CES along all streams or subset of streams and County B immediately adjoining not wanting to do that. We are trying to come up with an approach that is consistent and DEP has come up with one possible consistent approach. Mr. Harrison deferred to DEP to explain that approach.

Joanna Samson responded noting that that genesis of DEP's mapping is the issue of transparency—to a great extent in places where you have a C1 water body, you also should map out the buffers. DEP recognizes that this creates some practical mapping problems and she felt in some places there was some concern of members of OSG staff that the buffers don't always apply. DEP's response to that is that the buffers apply on a site-specific basis. DEP has said that there may be already disturbed lands and an individual permit that may justify reducing the CES. There is an issue about developing some consistency from county to county, but didn't know why it had to be a hard and fast rule. There may be places where you have a feature that doesn't go into another county that you may be able to isolate. That is one of those things that we need to look at as a policy matter that reflects the actual on the ground mapping decisions that are made. She noted that the DEP understands that when you put the buffer areas in you get large pieces already mapped on the map so it begins to look more difficult on a detailed map.

Chair Foglio questioned the rationale to have the buffers mapped. She noted that if you map the C1 anybody understands that looking at a C1 that there is buffer; we're not mapping wetlands. Ms. Samson responded that wetlands greater than one acre are mapped and it becomes more of a problem in the north than in the south, because in the south C1 water bodies are already surrounded by wetlands and in the north they often are not. They may be going through mountain areas, so you don't have the convenience of having a critical environmental site or a wetlands area already mapped associated with the C1 water body. It really becomes an issue of transparency in the northern region.

Chair Foglio noted that her only concern with the buffers is that there may be negotiated waivers with the buffer so if you map it, it's not transparent, because DEP will work with certain properties

depending on the condition. If you map the buffer you are basically saying that is it. Ms. Samson responded that she didn't think that was true. The State Plan Map is not a regulatory guidance and in her view it is very much like the flood plain type of maps and it says that you need to know that this is a C1 water body and the buffers apply. Individual permits, not necessarily negotiated, but regulatory definitions of when you can have some relief from the 300 foot or the 150 ft buffers for the C2 is a regulatory determined criteria. In order to achieve transparency, mapping buffers doesn't seem to be a bad policy item to pursue. There was a lengthy discussion on the mechanics of what would happen if the C1's were mapped. The discussion concluded that it was a policy issue for the subcommittee to discuss.

Joanna Samson commented that going through the issues she felt the subcommittee ought to come back to staff and develop a set of guiding principles that give them a sense of the Commission's policy direction. She noted that the Commission early on in the process wanted the process to be a bottoms up approach. She had some concerns that the counties were diligently doing the work and then when speaking with the staff, the staff has resisted doing some of those changes, stating that the county should come in for Plan Endorsement. That is unfair. One of the things that should happen, and which she would like to see discussed by a committee and supported by the Commission, is a principle that where a municipality/town/county comes in for Cross-acceptance and they have done the work and identified areas in a PA1 or 2 that have environmentally sensitive features or they want to extend a PA 4 or PA5 and the State Planning Commission should support those. In the same way, the State Planning Commission should support areas where there is PA3 with no environmental features and a county/municipality want to change that to an area for growth, we should support those types of changes as well. That is a bottoms up process. Another principle that the subcommittee ought to consider is transparency; we have said that we want to provide the counties and the municipalities with as much information as possible in a way that makes some consistent sense. She noted that she is personally disturbed to hear reports that data is either not getting to the counties or not being entertained by staff when it comes up. She explained that she hadn't vetted those and didn't know how deep or how wide those kind of issues are, but before we get much further down the road and get to the really difficult planning issues, and Cross-Acceptance and then Plan Endorsement, we ought to be developing those principles. She also felt that the subcommittee should look at is the intersection of COAH issues with these planning issues as well.

Chair Foglio requested that a policy committee be established and that it could either be done at this meeting or next but should be opened up to Commission members that were not present. Chair Foglio asked if a formal motion was needed to create the committee. Dan Reynolds noted that under the by-laws the chairman in consultation with the other members of the Commission gets to establish the subcommittee. Chair Foglio asked any member present to let Maura McManimon know if you would like to serve on the policy committee and that it be open to any members that were not represented today. Michele Byers, John Eskilson, Joanna Samson indicated that they would be willing to serve.

Committee Reports

Plan Implementation Committee, John Eskilson, Chair

Mr. Eskilson reported that the committee is continuing to work the Asbury Park petition and that the next meeting was scheduled for April 27, 2005.

PUBLIC COMMENTS

Candy Ashmun noted that she has been involved with the State Plan for 15 years and was there when the original map was done. She felt that one of the things that is happening is that the Commission has lost sight of what the map is for; the map is designed by statute to decide more or

less in a broad way where growth should go and where conservation should be. The function of the map in the Plan was always decided to be the place to depict geographically how the policies of the Plan would be implemented and feels that it has gotten totally lost in the discussion; especially about the C1 streams. As for the 4/4B issue, the original mapping of the environmentally sensitive area turned up a whole lot of land that was in agriculture and active. The almost foregone conclusion was that the agricultural community was upset about it because it would have all been mapped PA5 and they felt that it would be too constraining on agriculture. The intention of 4b was to say that as long as it is in agriculture the policies for agriculture would apply just as they do in PA4; but then if the land use changed the policies for Planning Area 5 would apply because it is environmentally sensitive. The Commission should be looking at the policies in the Plan and how they apply in these areas much more closely. A change in PA4/4B would be a very large mistake and make the map a whole lot less credible, just like mapping the buffer areas would make it less credible for what it is intended to be, which is a reflection of policy. She also complimented Essex County for their Cross-acceptance report. She felt it was very thoughtful and really did hit some statewide issue that she hoped everyone pays a lot of attention to.

Jeff Tittel, Director, NJ Sierra Club commented on the C1 streams and how they should be addressed in the State Plan. Category 1 waters are critical not only for habitat and protecting against flooding, but also to protect our reservoirs and drinking water sources. When you look at the State Plan under the criteria for PA 5 waters of that type are actually more appropriate to be PA 5. It is not just a narrow band along the stream that is a buffer; it is the HUC14 watershed which should be designated. He explained that it is what happens outside that narrow band that impacts water quality, and since the criteria is that there not be a measurable or calculable change in water quality, you need to look more than at the stream buffer. You should be looking at the entire HUC14. He also feels that there should be a PA4 and 4b and not collapsing the planning areas; it sends a very bad message that we are eliminating an environmentally sensitive planning area and undermines the intent of the State Plan in protecting natural resources, because PA4, which is also rural, is developing at a high rate. He noted that he is also deeply concerned about agricultural nodes. His concern is that because they are so broad, they can be opening up the door in parts of the State for combined area feed operations and lead to industrial processing plants and industrial farm operations. Also, critical is the overall Plan itself going through a mapping process and the State Plan is no longer a policy document it is now a regulatory document; the "fast track" law made it such. Centers, PA1 and 2; redevelopment areas; anywhere in the State are subject to "fast track" including redevelopment areas in PA 4, 4B and 5. We need to be looking more strategically at this Plan and at growth designations. CAFRA is a prime example of a failed law and a failed process where you have high-density centers where 70% of the vacant land is environmentally sensitive and there is no water and yet it is not being looked at in the State Plan. He noted that he is also concerned with mapping policies where you have an area that was PA5 and part of it gets bought for open space and so the parkland is clipped as a separate planning area and then you have an area of PA5 that is left over less than one square mile and then add it to PA1. He also thinks that going forward in the Highlands Planning Area with the State Plan before the Highlands Plan is done undermines the Highlands Plan. The Commission is going to be tying the hands of the Highlands Council in the planning area by going forward with the State Plan in its current form in those areas. He felt that the Commission should really be holding that area back so it can conform more with the Highlands planning process that is going on.

At this time Chair Foglio recognized that Pat Gillespie had joined the meeting and opened the floor to him to introduce himself and give the Commission an idea of what he is charged with as the Smart Growth Ombudsman.

Mr. Gillespie apologized for being late and noted that one of the things that Governor Codey asked him do when appointing him to the position and the State Planning Commission was to go out and meet with all of the stakeholder groups and the constituent groups related to the State's land use

policy, and that this morning he was at the South Jersey Chamber of Commerce meeting. He explained that the Governor appointed him to the position in the latter part of February and he has started exercising the powers and duties; particularly reviewing rules and regulations for all of the principle departments to see how that might impact the State Plan with respect to growth in all growth areas. He has also been charged with the statutory responsibility to do a variety of other things and also to work on the streamline-permitting program; and he has been working together with Commissioners Levin, Campbell and Lettiere towards that end and is happy to be here. One reason he took the position is that he felt it fit nicely with his experience; he has worked for the Senate for the past 12 years on transportation related issues, municipal land use law related issues, in addition served as a local official and local planning board member, on the housing authority and with economic development cooperation. So, he has some experience at the local level and thought that this position fit nicely. He noted that he is generally excited about it and it is fundamentally important to our State and State policy in a whole host of issues.

Chair Foglio opened the floor back up to public comment.

Chris Sturm representing New Jersey Future commended the Commission and the staff for their hard work on Cross-acceptance and thinks that setting up the committee is a great idea. The issues are so important. She noted that as already mentioned "fast track" has really for better or worse made the State Plan a regulatory document and it is critical that the map be more accurate. (Written comments attached).

Wilma Frey, Highlands Coalition and New Jersey Conservation Foundation, commented that one of the important things would be the relationship between the State Plan and the Highlands Plan. Although one does want communication between the two agencies, the Highlands Act really says there should be a plan for the Highlands done by the Highlands Council and that Plan should really take precedence. She questioned whether the Highlands Planning Area should be finalized in the Cross-Acceptance process in the Highlands Planning Area. The Highlands Council is going to do a plan for the entire region and if the State Plan Map just blanks out the preservation area and looks at only for the planning for the planning area that could lead to a skewed planning effort. They are also very concerned with the Planning Area 4/4B issue and are very glad that there is going to be subcommittee to deal with that. Collapsing those two categories into one is not the way to go. As a heads up she noted that the Hunterdon County Cross-acceptance report proposed to change a lot of the area along Interstate 78 from PA2 to 4B and 5. The Highlands Coalition really supported Hunterdon's proposal. Cross-acceptance committees from the municipalities along that corridor looked at a lot of environmental data and came up with a very well documented request to the County, which the county then accepted and endorsed. Now there are a couple of municipalities that are objecting to this because they have individual development proposals in mind. One of them is Tewksbury; the citizens in the municipality do not support the local government's recommendation in this respect. In Clinton Township, even though it endorsed its Cross-acceptance committee's proposal that the area that includes Windy Acres be changed to an environmentally sensitive planning area, we have been informed that the Council, in response to a COAH resolution, submitted a request to change it back to PA2. There are forces that are working against the county's recommendation, which was well founded on well-documented environmental information. We hope that you keep in mind.

Ms. McManimon explained that there is a public process that can take place if a municipality objects to the County's Cross-Acceptance report, which allows for the municipality to file their own Cross-acceptance report within 45 days of receipt by OSG of the county report.

John Eskilson noted that he felt it was time to have a meeting with the Highlands Council to talk about these issues upfront. It is not the Commission's intent to supersede or tie their hands, but the Commission does have some jurisdiction there. It would be helpful to have the conversation up front

and define the relationship. It was suggested that a joint Highlands Council/State Planning Commission meeting be held.

Ms. McManimon responded that the result of that would be some sort of joint resolution that there be a working relationship and sharing of information.

Paul Chrystie, Executive Director of the Coalition for Affordable Housing and the Environment, echoed the concerns of the environmental members and friends regarding PA 4 and 4B. He noted that it is developers who are causing development to take place in environmental areas. He noted that Mt. Laurel I was 1975; Mt Laurel II was 1983; the Fair Housing Act was 1985 and then COAH's first round of rules came out in 1987 so it has been 30 years that municipalities have been on notice that they have an affirmative obligation to provide affordable housing opportunities. If in those 30 years they have done nothing, they have chosen to leave themselves vulnerable to developers. He feels that it is important because in the statewide policy issues a number folks have raised the relationship between COAH certification and Plan Endorsement. What they have essentially recommended is further divorcing COAH compliance with the planning process. That is how you get into the position of not being able to direct your future to make sure that affordable housing goes in the right places, that it is designed in an environmentally sensitive fashion. We felt that COAH certification should be part of initial Plan Endorsement but for advanced Plan Endorsement, to say that you don't need COAH certification would be a mistake and undermine not only affordable housing rules but environmental rules as well.

Mike Herson, Conservation Chair for the North Jersey Group of the Sierra Club and municipal Cross-Acceptance coordinator for the town of Oradell, spoke mainly from an overall perspective not as the coordinator. He had a chance to look at the documents for the first time last night and is concerned about parks and natural areas and where county and local governments are identifying the areas. He feels from a holistic point for the whole State all the parks and natural areas should be identified. Similarly, historic and cultural sites, in the instructions he received as a Cross-Acceptance coordinator, he was told to identify historic and cultural sites, which he did. If he can identify on a parcel by parcel basis the historic homes in the town he doesn't see any reason why it couldn't be done on a statewide level; park wise too. Regarding existing state policy mapping conventions, he feels that technology has really advanced in the last several years and there is really no excuse to not have good data on a parcel by parcel level at this point in time, especially if a town has gone to the trouble of actually presenting you with that data. He noted that Bergen County on the State Plan level is basically red and from his approach one of purposes of Cross-acceptance was to have a bottoms up data flow from the municipalities telling the State, this should be green instead of red. That is why he feels that C1 have to be totally identified on the map and should be updated as new C1's are designated. On the Highlands region, it is going to be very difficult for the Highlands Council, and he feels it is good to initiate discussion now. The Commission should be mindful that their charge is to develop a holistic plan for the entire Highlands region not just for the planning area; you have to look at the planning and preservation area both. He also, agreed with the prior speakers about PA4/4B and they are different and distinct. It is important to listen to the municipalities, and it is crucial that the Commission identify critical environmental sites and PA5 and do the right thing on a statewide level.

Helen Heinrich, NJ Farm Bureau noted that the arguments and proposal discussed today and the reactions received are exactly what happened in the preparation of the other two State Plans. A lot of the proposed PA4 language was brought up in the late 80's and got left out for some of the same reasons that have been raised. Back in those days farmland was looked at as something that was going to develop immediately. Farmers were "developers in overalls" and now the specter is that farmland is going to be agribusiness/agri industry with all kinds of specters of agriculture that NJ doesn't want. She feels the farmers would say that they have made progress because agriculture is an industry and farmers in NJ want to survive and be profitable. The split is something that should be

discussed and they would like to be part of the subcommittee and will be there to offer public comment. There is a lot of ambiguity of 4/4B. We understand it the way Ms. Ashmun did, and it hasn't been implemented that way. So that is one of the problems with the mapping that is being passed back to you. Another hesitation is that there is farmland in every planning area--thousands of acres. What about those active farms. She noted that you cannot use statistics about US agriculture and get a sense of what it is like in NJ. New Jersey is very unique: it's changing; it's dynamic; it's increasing in regulation, so that some of the environmental fears that people have of what could happen if 4B is eliminated are unfounded. She hopes that the subcommittee will enable some of this information to come out and put some of the questions to rest. Ms. Heinrich noted that OSG is going to get into negotiation with the counties and there is now this subcommittee to discuss the controversial issues. So in terms of the timing, are you going to be presenting these proposals to the counties as you negotiate?

Ms. McManimon responded that at this point it looks like staff should certainly hold off on holding any of the public meetings with the counties until given the direction by the subcommittee and then the State Planning Commission.

Chair Foglio confirmed that the intention would not be hold negotiating sessions until staff had direction from the Commission in terms of those policy statements.

With no other public comments, Chair Foglio asked for Commissioner Reports.

COMMISSIONER REPORTS

Monique Purcell, Department of Agriculture

Ms. Purcell reported that the Agriculture Smart Growth Planners Tool Kit was up and running on the web site. It is a great start to providing local municipalities counties and individuals some hands on tools to implement the Ag Smart Growth Plan. The department is also working on a number of rules; one is finalizing the Highlands rule for agriculture--the rule that is specific to agricultural and horticultural development in the Highlands Preservation Area, and they are continuing work on the animal waste rule and will be hold three public open sessions on that topic "managing animal waste" May 4, 11 and 12.

With no further comments from the Commission or the public, Chair Foglio asked for a motion to adjourn, the motion was moved all were in favor. The meeting was adjourned 11:26 a.m.

Respectfully submitted,



Maura K. McManimon
Secretary and Executive Director

Dated: May 3, 2005