



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
STATE PLANNING COMMISSION
OFFICE OF SMART GROWTH
PO BOX 204
TRENTON NJ 08625-0204

RICHARD J. CODEY
Acting Governor

CHARLES A. RICHMAN
Acting Commissioner

CHRISTIANA FOGLIO
Chair

MAURA K. MCMANIMON
Executive Director

**Minutes of the Meeting Held September 21, 2005
Thomas Edison College Prudence Hall
101 West State Street Trenton, New Jersey**

CALL TO ORDER

Christiana Foglio, Chair at 9:43 a.m., called the September 21, 2005 meeting of the New Jersey State Planning Commission to order.

OPEN PUBLIC MEETINGS ACT

Daniel P. 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
Liz Semple, Designee for Commissioner Bradley Campbell, Department of
Environmental Protection
John Eskilson, Public Member (arrived at 9:45 a.m.)
Patrick Gillespie, Smart Growth Ombudsman
Monique Purcell, Designee for Secretary Charles Kuperus, Department of
Agriculture
Brent Barnes, Designee for Commissioner John Lettiere, Department of
Transportation
Daniel Levine, Designee for State Treasurer John E. McCormac, Department of
Treasury
Edward McKenna, Jr., Public Member (arrived at 11:07 a.m.)
Thomas Michnewicz, Public Member
Lauren Moore, Manager, Office of Business Advocate & Information, Commerce
&
Economic Growth Commission
George Pruitt, Public Member
Christiana Foglio, Chair and Public Member

Not Present



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Peter Lazaropolous, Public Member
Marilyn Lennon, Public Member
Charles A. Richman, Acting Commissioner, Department of Community Affairs

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 July 20, 2005 meeting. Pat Gillespie so moved and George Pruitt seconded the motion. Chair Foglio asked for a roll call vote. Ayes: (9) Michele Byers, Liz Semple, Patrick Gillespie, Monique Purcell, Brent Barnes, Daniel Levine, Lauren Moore, George Pruitt, Christiana Foglio. Nays: (0). Abstains: (1) Thomas Michnewicz.

CHAIR'S COMMENTS, Christiana Foglio, Chair

Chair Foglio thanked the Plan Development Committee for their hard work in reaching an agreement on some of the policy issues that were before them today.

EXECUTIVE DIRECTOR REPORT, Maura McManimon, Executive Director

Maura McManimon reported that the Office of Smart Growth had recently commented on rule proposals from the New Jersey Environmental Infrastructure Trust, Green Acres and NJ Historic Trust. She noted that the goal of the comments was to have all three programs link their funding decisions to Plan Endorsement and designated centers.

Committee Reports

Plan Implementation Committee, John Eskilson, Chair

John Eskilson reported that the Plan Implementation Committee was scheduled to meet on October 6, 2005 to discuss the Ocean Township petition for Plan Endorsement. He also would like the committee to focus on the Highlands and a possible Memorandum of Understanding between the Highlands Council and the State Planning Commission.



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Plan Development Committee

Ms. McManimon noted that the Office had received the last of the Cross-acceptance reports and hoped to have a list of statewide policies compiled by the end of the month for the Committee to review. She then introduced Bill Harrison to report on the PDC meeting that was held on September 7th.

Mr. Harrison reviewed the changes made to the mapping criteria based on the comments received at the September 7th PDC meeting.

He then reviewed the policy memo on the Preservation of Historic and Cultural Resources indicating that as a result of the PDC discussion, language was added to reflect that county-proposed historic sites would be evaluated on a case by case basis. He also indicated that the memo includes a recommendation from the PDC that the Office of Smart Growth analyze the historic sites that are requested in the county Cross-acceptance reports and make a recommendation whether there should be a size threshold or other limitation on which sites should be placed on the map. Historic districts that are on either the New Jersey or national register will be accepted.

He further noted that OSG will accept all preserved open space mapping submitted in the county cross-acceptance reports, as long as the appropriate documentation and mapping information is included.

Ms. McManimon indicated that with respect to the historic sites, the DEP Historic Preservation Office has received funding to map historic sites and she hoped to recommend to the State Planning Commission that it could use that as a resource. In addition, she would like to have Green Acres information on open space available.

Liz Semple noted that both programs support what the Commission is doing and want to make the data layers consistent.

Pat Gillespie thanked the public and the department for the amount of time that was put into the development and context of the document which develops a useful framework for Cross-acceptance.

Michele Byers commented that because of the fast track law and all of the discussion about trying to make it easier to grow in the so called growth areas, everyone's attention is on what our planning areas are. She feels that the



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mapping criteria is only one piece of getting to the answer and that the mapping criteria is fine for the purposes of Cross-acceptance and making determinations on the broad State Plan Policy Map. But when it comes to implementing the Fast Track law, towns should still have to go through Plan Endorsement before that process can go to work.

Mr. Gillespie responded that there were currently rounds of discussion taking place about how to make plan endorsement a part of the expedited permit process, through amendments to the Smart Growth Act. There was a brief discussion on this topic.

Chair Foglio introduced Resolution No. 2005-02 Supporting the Criteria for Initial Staff Responses to Suggested Changes in the Preliminary State Plan Policy Map Proposed in Cross-Acceptance Reports. It was moved by Brent Barnes and seconded by Pat Gillespie.

Chair Foglio opened the floor for public comments.

Jeff Tittel, New Jersey Sierra Club, commented that he was concerned with Cross-acceptance and mapping. He explained that what he didn't see was how the Commission was going to respond to situations where State agencies or other councils, such as the Highlands Council, look at an area very differently than a county does, or the Commission. He also feels that the Commission has created a one-dimensional State Plan and that we tend to forget about all the policies and things that are behind the Plan. He is concerned with the lack of a strategic vision for the State Plan, and lack of a capacity analysis to back it up. He is also concerned with the memo which talks about existing developed sites as being a reason to change an area to a growth area. These areas should not be pressured to grow more just because they may have been inappropriately developed in the past. But there does need to be a focus on the inner-ring suburbs, which often gets lost in the discussion. Lastly, he commented that one part that is missing from the State Plan in general and from the mapping is emergency management. In light of the last few years and the hurricanes in the gulf coast, emergency management and emergency response should be part of the Plan.

Wilma Frey, Highlands Coalition – New Jersey Committee, commented that the Highlands Coalition has always been very concerned about protecting the natural resources of the State. They are very concerned that the planning areas reflect the environmental values and the environmental sensitivity of our State. She is





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concerned with some of the proposed map amendment language that is recommended for agreement and how it affects the Highlands area, specifically the Route 78 corridor. She noted she was concerned with the word “permitted” and that it opens up a can of worms. What is permitted? What does it mean? Is it a permit that is 15 years old? She commented that she was also concerned with the historic resources. She questioned whether things should have to appear on a county map in order to appear on the State Plan Map.

Ms. Semple noted that in reference to the historic sites or districts she felt that the memo reflected that the State Plan Map would recognize districts and sites up to a certain size, that are on the state or federal register. She responded that the permitted infrastructure language was a big issue for DEP. She explained that the DEP is concerned with the outdated water quality management plans particularly. Permits that are in place are legal at this point. A lot of those we do end up grandfathering, because they are on the books, and people are counting on them. But the planned infrastructure that is associated with an outdated water quality management plan that hasn’t been updated like it was supposed to be something that DEP didn’t want to be relied upon, in the State Plan. There was a brief discussion on how recently approved 208 Plans and EO109 fit into the language. Chair Foglio noted that infrastructure is just one of the criteria that has to be present to support a planning area change. It doesn’t overrule other policies on its own.

David Hojsak, President, County Planners Association, commented that the County Planners want to be a cooperative partner in the Cross-acceptance process. They want clear, consistent application of criteria and procedures throughout the whole Cross-acceptance process. However, there were some concerns on the mapping criteria that differed from the August 3 version to the September 7th version with respect to the language change from “existing” to “permitted”. They feel that this change represents a de facto change to the State Plan policies and find it inconsistent with the State Plan. It is something that was not cross-accepted. He questioned why the Commission was proposing it—this policy change at this point in time after all the Cross-acceptance reports have been completed. The association requested that this language be changed back to planned infrastructure, making it consistent with the current State Plan and the Preliminary Plan. He also requested that if the Commission feels that it is inappropriate to make the language change, they respectfully requested a written opinion from the Deputy Attorney General on the appropriateness of the language change at this point in time.



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There was a lengthy discussion on the rationale for the change in the language. It was also explained that the criteria was a document to give OSG staff guidance in their review of map amendments proposed by the counties and that staff was clear that if there was any gray area that those issues would be brought before the PDC and then ultimately the SPC for resolution. It was also explained that there are a minimum of three public forums for any issues to be discussed.

Candy Ashmun commented that she appreciated the discussion but unfortunately by giving examples, every town in the State is going to look only at the examples. So she suggested that the first four points listed in the mapping criteria memo are the real meat of the discussion, which basically tells the staff how to handle things. She also suggested that where it says "map amendments that will be recommended for agreement," it be changed to say "may be recommended for agreement".

Christine Marion, Morris County Planning Department, commented that she had some of the same concerns as Mr. Hojsak and acknowledged that the staff needs more guidelines, but there should also be compromise. She suggested that for those items where there is disagreement, perhaps the wording should be "deferred issues," which will be negotiated further. She also commented that the sewer service revocation map released by DEP doesn't match the county's information, and they just conducted a very detailed analysis of their existing sewer service areas.

Bob Kull, Burlington County, commented that the Commission and OSG should promote the role of planners and land use in hazard mitigation planning. With regard to the mapping criteria, the Commission needs to soften the criteria to accommodate planned infrastructure, not just permitted infrastructure. There is no policy on the justification for this regulatory approach. The State Plan is about the future not just the past.

John Peterson, Deputy Director, Department of Regional Planning Development for Atlantic County, commented that a specific issue comes up in Egg Harbor Township, which is a growth area that supports Atlantic City development. There is one of those older wastewater management plans, and he believes that any wastewater management plan that is still valid, legally so, should be considered as the permitted language in this discussion. He feels that if the Commission defines the language so narrowly, it will raise the number of issues that have to be brought up to the SPC. As a result, this will put more burdens on OSG and the



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Commission when those issues actually have to be negotiated and discussed in the negotiation meetings and also when it comes to public meetings.

Chris Sturm, New Jersey Future, commented that New Jersey Future was delighted that the Commission was talking about the issues today. They trust that it will be done right so that the Cross-acceptance process can move on. She noted that NJ Future will be pushing for more definition of the mapping criteria for the Plan Endorsement process. At this point, however, we think the SPC needs to adopt this resolution and move forward. She also commented that from what she understood, DEP's environmental analysis of the Preliminary Plan had not yet been mailed out to the counties and encouraged that to happen as soon as possible, so that the counties have ample time to review it prior to meetings. She also asked that the Commission take a leadership role in leading the charge to get local sewer plans updated and to get the State to update and clarify what its regulations are. She noted that it is clearly a role for DEP, but it also feeds into the farmland preservation priorities and into the growth areas of the State.

Eric Synder, Sussex County, commented that his only concern beyond those expressed was that this mapping policy implies that planned infrastructure for centers is not really something we're looking for; we're only looking at the permit in hand. He explained that one of things that Sussex has done in putting together their strategic growth plan in a manner consistent with the State Plan, is to base it on environmental characteristics, and to talk about changing the whole of development for the county. That requires that there be planned infrastructure, because existing infrastructure might indeed not be in the right place for centers to be determined under the criteria.

Leanne Foster-Sitar, American Littoral Society, commented that she felt that the Commission should not be rejecting CES designations outright on lakes, ponds and other standing water bodies. She also urged the Commission to keep the current language that is in the existing document with regard to existing or permitted infrastructure.

Jeff Tittel, New Jersey Sierra Club, commented that we go around and around in a circular logic without actually looking at what's on the ground and what the implications are and what the capacity is and the strategic implications. This has been the problem in the State Plan for the last 15 years.

Chair Foglio asked for a motion to approve the Resolution with changes made to the memos to reflect "recommend for agreement" and "map amendments for



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discussion.” Mr. Barnes moved the motion and Pat Gillespie seconded the motion. Chair Foglio asked for a roll call vote: Ayes: (10) Liz Semple, Patrick Gillespie, Monique Purcell, Brent Barnes, Daniel Levine, Edward McKenna, Thomas Michnewicz, Lauren Moore, George Pruitt, Christiana Foglio. Nays: (0). Abstains: (0).

PUBLIC COMMENTS

Paul Chrystie, executive director, Council on Affordable Housing and the Environment, commented that the Commission should take up a resolution at next month’s meeting calling for a repeal of the fast track law. He felt that there is no way a four week legislative process is going to be significantly better than the four-day process that produced fast track in the first place. The State should not be reducing standards. The bill doesn’t reduce them – it eliminates them. He noted that people in urban areas should not get less environmental protection than people elsewhere. Secondly, the Council also submitted comments to NJEIT and Green Acres to require better consistency with State Plan, but they did not suggest linking them to Plan Endorsement because Plan Endorsement has no process. He suggested that the Commission look strongly at how it is doing Plan Endorsement, because there is no mechanism by which everybody plays by the same rules.

Barbara Palmer, ANJEC, commented that ANJEC has been following plan endorsement very closely and it supports Plan Endorsement and has high hopes that it will be the tool for implementing the goals of the State Plan at the local level. She noted that ANJEC is seriously concerned that the State Planning Commission is not getting enough input from the public. The Plan Implementation Agreement will only be carried out if the public supports it. So far, the public’s involvement has been minimal. The municipalities are following the letter of the law by announcing and holding one public meeting, but the public involvement falls far short of what was intended. Often the meeting minutes are not even accessible. In the cases of both Dover and Ocean, a public meeting was held shortly before the petitions were filed. However, in both cases, substantial changes were made to the petitions in response to OSG review and incomplete letters. These changes were never presented to the public. Additionally the required elements that would normally involve the local environmental commissions which are the natural resource inventory and the mapping based on that were hastily put together by consultants without any involvement from the local commissions. She stressed that the SPC needs to



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hear the public's response and should insist that the guidelines are followed, and that the public is involved in every step of Plan Endorsement.

Jeff Tittel, New Jersey Sierra Club, commented that the new Green Acres rule provides for additional points for coming in for Plan Endorsement to help buy open space, however, initial Plan Endorsement does not even require an Open Space Plan. He feels if the State is going to be giving carrots for doing Plan Endorsement then Plan Endorsement should include an Open Space Plan. He also commented on something he felt the Commission should be aware of, the draft surface water quality plans that were just published in the New Jersey Register. Mr. Tittel expressed his belief that DEP was throwing away their authority, throwing away the Memorandum of Agreement they have with EPA to the SPC. This is undermining the State Clean Water Act, the Federal Clean Water and the New Jersey Pollution Control Act. He felt that Commission should be aware of it.

Mr. Gillespie responded that he disagreed with Mr. Tittel's characterization. Having reviewed the rules himself DEP is not conceding any of their authority in terms of reviewing applications. There was a lengthy discussion on this issue, including agreement that the Commission was not the forum to get into a debate on the rule proposal, which were still in the public comment period.

Candy Ashmun commented that the public comments are not reflected in the plan endorsement petitions and that they are sometimes not accessible or there have not been public comments on changes that have been made to the petition.

Chair Foglio responded that she has been committed to receiving public comments and that that issue would be investigated.

At this time the public comment portion of the meeting was closed.





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COMMISSIONER REPORTS

Liz Semple, Department of Environmental Protection

Ms. Semple reported that the Office of Smart Growth and the DEP are preparing a joint letter that will go out to the counties with DEP's environmental analysis of the Preliminary Plan. The department would like to see them incorporated into Plan Endorsement discussions and also to have the local level consider them. With regard to public comment received on mapping CES's over waterbodies, we need to show waterbodies on the map, but it is not necessary to also identify them as a CES. The department is looking forward to the addressing the county statewide issues in the PDC meetings.

Monique Purcell, Department of Agriculture

Ms. Purcell commented that there was a letter sent to the Commission by Bob Bzik, of Somerset County regarding the DEP map analysis. He stated in the letter that this should be considered to be DEP introducing new data into Cross-acceptance, which they are not willing to consider. She noted that it was her understanding that the information is not new and that it is basically an analysis of existing information. Ms. Semple confirmed that it was an analysis of existing information. Plus it was sent out for consideration during Cross-acceptance only if the counties want to use it.

With no further comments from the Commission or the public, Chair Foglio asked for a motion to adjourn, the motion was moved by John Eskilson and seconded by Ed McKenna. All were in favor. The meeting was adjourned 11:48 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Maura K. McManimon".

Maura K. McManimon
Secretary and Executive Director

Dated: October 7, 2005