



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

JON S. CORZINE
Governor

SUSAN BASS LEVIN
Commissioner

CHRISTIANA FOGLIO
Chair

EILEEN SWAN
Executive Director & Secretary

**Minutes of the Meeting Held April 19, 2006
Thomas Edison College, Prudence Hall
101 West State Street, Trenton, New Jersey**

CALL TO ORDER

Michele Byers, Vice Chair called the April 19, 2006 meeting of the New Jersey State Planning Commission to order at 9:46 a.m.

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

Bernard McLaughlin, Designee for State Treasurer, Bradley Abelow, Department of Treasury
Kenneth Albert, Public Member
Michele Byers, Public Member
John Eskilson, Public Member (Arrived at 10:00 a.m.)
Adam Zellner, Designee for Commissioner Lisa Jackson, Department of Environmental Protection
Brent Barnes, Designee for Commissioner Kris Kolluri, Department of Transportation
Roberta Lang, Designee for Secretary Charles Kuperus, Department of Agriculture
Marilyn Lennon, Public Member
Marge Della Vecchia, Designee for Commissioner Susan Bass Levin, Department of Community Affairs
Debbie Mans, Smart Growth Ombudsman
Edward McKenna, Jr., Public Member
Thomas Michnewicz, Public Member
George Pruitt, Public Member

Not Present

Lauren Moore, Manager, Office of Business Advocate & Information, Commerce & Economic Growth Commission
Christiana Foglio, Chair and Public Member



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Others Present (See Attachment A)

PLEDGE OF ALLEGIANCE

Vice Chair Byers asked everyone to stand for the Pledge of Allegiance.

APPROVAL OF MINUTES

Vice Chair Byers asked for a motion to approve the minutes of the December 7, 2005 meeting. Edward McKenna made the motion and Brent Barnes seconded the motion. Vice Chair Byers asked for a roll call vote. Ayes (11): Bernard McLaughlin, Kenneth Albert, Michele Byers, Adam Zellner, Brent Barnes, Roberta Lang, Marilyn Lennon, Marge Della Vecchia, Edward McKenna, Thomas Michnewicz, and George Pruitt. Nays (0). Abstains (1): Debbie Mans.

Vice Chair Byers asked for a motion to approve the minutes of the January 19, 2006 meeting. Edward McKenna made the motion and George Pruitt seconded the motion. Vice Chair Byers asked for a roll call vote. Ayes (11): Bernard McLaughlin, Kenneth Albert, Michele Byers, Adam Zellner, Brent Barnes, Roberta Lang, Marilyn Lennon, Marge Della Vecchia, Edward McKenna, Thomas Michnewicz, and George Pruitt. Nays (0). Abstains (1): Debbie Mans.

Vice Chair Byers asked for a motion to approve the minutes of the March 15, 2006 meeting. Marilyn Lennon made the motion and George Pruitt seconded the motion. Vice Chair Byers asked for a roll call vote. Ayes (11): Bernard McLaughlin, Kenneth Albert, Michele Byers, Adam Zellner, Brent Barnes, Roberta Lang, Marilyn Lennon, Debbie Mans, Edward McKenna, Thomas Michnewicz, and George Pruitt. Nays (0). Abstains (1): Marge Della Vecchia.

CHAIR'S COMMENTS, Michele Byers, Vice Chair

Vice Chair Byers commented that she was pleased to have Eileen Swan as the new Executive Director of the Office of Smart Growth. She commented that with the change in the administration she felt that the Commission needs to work with the new administration to help them understand how vital and important the State Plan is to the future of New Jersey, not just in terms of a land use planning, but in terms of the fiscal impact on the budget and in the long term. She suggested that at some point the discussion be put on the agenda and that the Commission work with Debbie Mans of the Governor's office to help facilitate the discussion.

EXECUTIVE DIRECTOR REPORT, Eileen Swan, Executive Director



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Ms. Swan thanked Vice Chair Byers for her comments and agreed that it was an important issue. Ms. Swan reported that the office will be facing an inordinate amount of work as it gears up to do Cross-Acceptance. She explained that the Office has been working with its sister agencies to get Cross-Acceptance back on track and that a schedule would be coming out soon.

Next, Ms. Swan announced some of the changes that have taken place within the Office. She welcomed new staff members: Ben Spinelli, Policy Director, leading Cross-Acceptance, monitoring legislation regulations, working with the Smart Growth Ombudsman and the Interagency Smart Growth Policy Team; Courtenay Mercer, Planning Director, in charge of the Planning Unit; Erika Webb, area planner; and Lorissa Whitaker, moving from Policy Unit into the Planning Unit to become an area planner; and Joe Donald continues his position as deputy director and will be leading the Plan Endorsement process.

Ms. Swan asked Danielle Stevens to report on the status of Plan Endorsement. Ms. Stevens reported that since the last State Planning Commission meeting the Office had held a pre-petition meeting with Washington Township, Warren County and had received a petition for Plan Endorsement from Mansfield Township, Burlington County and has issued two completeness determinations letters; one for the Western Monmouth Plan and the other being the Sussex County Plan. In addition, a public hearing was held in accordance to the Plan Endorsement Guidelines, on the West Amwell Township petition on April 10 and another public hearing was scheduled for April 24 on the Dover Township petition. At the next Plan Implementation Committee (PIC) meeting there will be a presentation from West Amwell on their petition and at the May meeting, Middlesex County would be making a presentation on their petition for the Strategic Planning Area Group 1.

Ms. Swan added that at the PIC meeting there would be a discussion on a proposed Memorandum of Understanding (MOU) between the Highlands Council and the State Planning Commission regarding coordination between the two agencies as the Highlands works on the regional plan and questions of plan endorsement projects that may be in the Highlands area and how those will be coordinated. At John Eskilson's request there will also be a discussion on regional planning.

Policy Directive

Ms. Swan moved the discussion to the Policy Directive that was introduced at the March 15, 2006 State Planning Commission meeting. She explained that she would be seeking approval of the directive so that staff can be directed on the approach to take when working with the CAFRA towns that are seeking endorsement of their plans and proposed centers by the State





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Planning Commission and then approval by Department of Environmental Protection (DEP) under their standards under CAFRA.

Ms. Swan reported that the Office is committed to working with the municipalities and its sister agencies to achieve a balance between their economic interests and the protection of the most ecologically sensitive and fragile areas in the coastal region. She briefly explained the directive noting that it extends the State agency review period from 45-days to six months through a mutual agreement with the CAFRA municipalities. During the six months, the Office of Smart Growth will enter into an MOU with these municipalities agreeing to the approach. There will be an Action Plan that outlines actions that need to be taken to achieve consistency with the State Plan, and time within which to complete the actions. She explained that the standards for approving or disapproving petitions for Plan Endorsement will not change. The public process for commenting on the CAFRA municipalities and the petitions has not changed. She acknowledged receipt of a letter from Hill Wallick, Attorneys at Law representing the New Jersey Builders Association. She noted that all comments will be taken into consideration and stressed that the concerns raised about public input will not be change by the Policy Directive.

Ms. Swan explained that a summary of the initial Plan Endorsement requirements, along with DEP standards for approving the State Planning Commission endorsed centers under CAFRA will be posted on the website to allow the public to see what the Office is doing. The Office will continue to post documents on the web site allowing the public access to the information. She further commented that the directive only applies to those towns that were deemed complete by March 15, 2006, and as a result, their Coastal Centers were reestablished under the Coastal Zone Management Rules. For those towns that were not successful in obtaining a completeness determination, those Coastal Centers remain expired, and the towns will need to proceed through the normal Plan Endorsement process as set forth in the rules and guidelines.

In closing, Ms. Swan explained that the Office had received legal advice from both Tracie Gelbstein within the Office of Smart Growth and Dan Reynolds from the Deputy Attorney General's office, to make sure that the directive was appropriate and was able to stand on its own.

Vice Chair Byers asked for a motion to approve Resolution No. 2006-02 Approve Policy Directive: Plan Endorsement Process for CAFRA Towns with petitions that have been deemed complete by March 15, 2006 pursuant to the NJDEP Coastal Zone Management Rules, Edward McKenna made the motion and John Eskilson seconded. Vice Chair Byers opened the floor to comments from the State Planning Commission members.

Edward McKenna commented that he feels that the directive is furthering the Commission's goal to get municipalities to do smart planning with the Commission, as well as DEP.



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John Eskilson concurred with Mr. McKenna's comments.

Adam Zellner offered DEP's commitment to work with the towns to go forward recognizing there is a CAFRA bar that DEP is responsible for enforcing and recognizing that that bar must be met during the process and to assist them in that process.

Marilyn Lennon commented that she was strongly in favor of the process. However, she felt that as the Commission goes through the process with the municipalities the Commission should help ensure that the plans do not sit on the shelf.

With no other comments from the Commission members, Vice Chair Byers opened the floor to public comments on Resolution 2006-02.

Public Comments

Sandy Airs, Attorney commented that she had submitted a letter to the Commission regarding a proposal for a Town Center in Manchester Township. She expressed her concern regarding the process for center designation through Plan Endorsement and Cross-Acceptance. She noted that through Ocean County's Cross-Acceptance report Manchester Township requested a Town Center designation. She was concerned that if there were no centers being designated through Cross-Acceptance, which she was informed there would be, that the town would have to go through endorsement. She also questioned if there would be a two track process for Manchester.

Ms. Swan responded that town center designations are established through the Plan Endorsement process with the municipality. Ms. Airs commented that she represents a land owner and the lessee of the land within the proposed Town Center. She questioned how the property owner could become involved in the process both to advocate and then resolve that results are consistent with Plan Endorsement at the same time preventing a result that would be in conflict with property owner interest. Ms. Swan suggested that the first thing to do is register with the Office of Smart Growth to receive all information on Plan Endorsement and then have a conversation with Courtenay Mercer to further discuss the issues. Mr. Eskilson also suggested that Ms. Airs participate in the PIC discussion of regional plans.

Jeff Tittel, director of New Jersey Sierra Club, expressed his concerns with the Policy Directive. Mr. Tittel felt that if the directive was approved it would only be perpetuating the problem created by former Governor Whitman who gave the towns five years to come in and receive center designation. He feels that the only way the system would make any sense is that there be a freeze on all of the



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CAFRA permits on the clipped areas until the plans are done. He feels that because the CAFRA permits will not be frozen all the Commission will be doing is codifying some bad projects and having additional water supply problems.

Ms. Swan responded that the centers in the municipalities have been reestablished for a year until March 15, 2007 and that is the defacto situation and all the Commission is doing is allowing a six month period for planning to occur. Mr. Tittel expressed his concerns that there are 60 CAFRA permits pending in the centers and within that year they will be pushed through.

Helen Henderson, project manager for Barnegat Bay expressed her concern that the permits that she has reviewed individually and an example is a CAFRA permit that may come in under the grandfathering, even in a years time don't have to do with the review period of the six months. A lot of applications that she has looked at where the towns were submitting multi current permit applications and holding back on fresh water wetlands or stream encroachment permits and applying only for CAFRA portion in order to achieve the benefits of the higher impervious coverage limits. After reviewing some of the applications, with legal guidance, she understood that CAFRA is governed by a complete review of whatever is in place at the time. A fresh water wetlands permit, which could ultimately become one of the clipped areas during the six month negotiation phase, would be a time of decision on those applications, so what should be a clipped area, subject to lower impervious coverage amounts, has now been grandfathered under CAFRA and how will the Commission handle those types of situations.

Ms. Swan responded that the year that they have reestablished governs that. All the Commission is looking at is planning during that six month period.

Mr. Zellner responded that the establishment of the temporary center boundaries did not include land in six environmentally important categories. He noted that the clipping of those environmentally important areas has already occurred on the reestablished centers. Those projects that moved in before the clipping took place a couple of months ago are at this point moving forward. He noted that as the Department moves forward they are trying to get the towns to do additional work that relates to the CAFRA process. There was a discussion on the issue of the clipping environmental areas from the centers.

Chris Sturm, New Jersey Future commented that she felt the need for the Policy Directive has arisen because the standards of Plan Endorsement were not clear, and the towns did not understand what it was they needed to submit, so she was really delighted to hear that those requirements would be posted on the web. The upside of lengthening the review process is that the Commission can work with these coastal towns to get consistent master plans and ordinances in place. She noted that the enhanced Plan Endorsement Task Force has



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recommended that endorsement not be granted until the Master Plan and the most essential ordinances, the zoning ordinances especially, are in place so that any development that comes in after endorsement is going to be consistent with the State Plan. They don't think that zoning ordinance changes should be put into the Planning Implementation Agenda (PIA) and the Commission should not be endorsing a town if they aren't in place. They do support the approach of action plans where it is clearly specified what is needed from the towns and, by when, in the form of an MOU agreement. She noted that New Jersey Future does support the Policy Directive and would recommend that a steering committee be created to revise the Plan Endorsement guidelines.

David McKeon, assistant planning director for Ocean County commented that Ocean County does support the proposal before the Commission and complimented Ms. Swan on her introductory statements noting they were right on the mark. He noted that the towns do need the extra time and commended the Commission for bringing the proposal forward.

Leanne Foster, policy director for the American Littoral Society commented that she does appreciate the efforts that the Office of Smart Growth has gone through to try to do something about Plan Endorsement. There have been many times that there has been a lack of clarity in the process. The Littoral Society feels there is also a lack of substance in terms of the requirements being tough enough to produce the outcomes they think are smart growth. She expressed that the Policy Directive is not the way to do it and opposes the directive. She noted that she feels the directive is a substantive change that requires a rule proposal and amendment to the rules and that it can not be done legally by the directive. She also commented that the directive indicates on page four "and give CAFRA towns assurance that the NJDEP will approve a coastal center that has been endorsed by the SPC." She explained that these are two separate processes and that suggested wording would be a delegation of authority. There was a brief discussion on the wording and issue of delegation of authority.

Ms. Swan responded that she had explained that there are two bars that the towns will have to meet and that within the MOU, which would be signed by the town, and other agencies, there will be a dual track process where they have the opportunity to work to meet the CAFRA bar, under the jurisdiction of the DEP while working with OSG to meet the Plan Endorsement bar. She also noted that both bars will be posted on the web. There was also a brief discussion on a rule amendment being used to achieve this as opposed to the directive. It was reiterated that the advice of the Attorney General's Office had been sought on the use of the directive. The time needed for a rule change would not allow OSG to assist the CAFRA towns.

George Pruitt commented that he was enormously impressed with both the planning community and the State Planning Commission. The staff to the Commission over the years has been very committed. He explained that the Commission's job is described by statute and regulation so



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when someone accepts this assignment they agree to uphold the law and to enforce the regulations and the law the best they can. He is convinced that the Commission works on a premise that is fundamentally flawed, and every time there is a new governor, there is the opportunity to raise the questions about the fundamental premise on what the Commission's work is based. He hoped that through Commissioner Susan Bass Levin and Eileen Swan they engage Governor Corzine to get involved at an elevated level, revisit the statute, revisit the fundamental premise under which the Commission operates because he feels they are flawed. He also suggested that the State has to be regionalized and can't plan unless it is done on a regionalized basis.

Vice Chair Byers thanked Dr. Pruitt for his comments and suggested that he put them down in writing and forward them to Debbie Mans.

Edward McKenna also commented that he feels very encouraged that there will be real positive changes in the State under the leadership of Governor Corzine. He noted that what the Commission needs is legislative strength or muscle to give it the ability to start implementing all the policies that everyone is in agreement on.

Debbie Mans, on behalf of the Governor thanked Mr. McKenna and Dr. Pruitt for their comments. She also noted that she was very open to hearing exactly what the Commission would like to see move forward to the Governor.

Vice Chair Byers asked for a roll call vote on Resolution No. 2006-02 Approve Policy Directive: Plan Endorsement Process for CAFRA Towns with petitions that have been deemed complete by March 15, 2006 pursuant to the NJDEP Coastal Zone Management Rules. Ayes (13): Bernard McLaughlin, Kenneth Albert, Michele Byers, John Eskilson, Adam Zellner, Brent Barnes, Roberta Lang, Marilyn Lennon, Marge Della Vecchia, Debbie Mans, Edward McKenna, Thomas Michnewicz, and George Pruitt. Nays (0). Abstains (0):

Committee Reports

Plan Implementation Committee, John Eskilson, Chair

John Eskilson deferred on a report, since Ms. Swan had previously summarized the agenda for the April 26 meeting.

PUBLIC COMMENTS

Don Kirchhoffer of the New Jersey Conservation Foundation commented that he was unable to get a clear statement as to what the public involvement would be in the Cross-Acceptance and



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when it comes down to the CAFRA issues. He questioned what the role of the public would be? Ms. Swan responded that the Office of Smart Growth will follow the Cross-Acceptance guidelines that are in place. There is a requirement to hold public hearings. Mapping issues will be handled in the negotiation phase, but the statewide issues with our response to the negotiated comments and bringing out the map would be done in that public process. There was discussion on at what point in the process the public would be able to provide input.

Jeff Tittel, director of the NJ Sierra Club brought to the Commission's attention a proposal for a Wal-Mart in Piles Grove, Salem County. He brought the proposal up because it is within the boundaries of the Sequana Meadows National Wildlife Refuge and that there are many endangered species, high quality waters, wetlands, but it is also in a Planning Area 1 and mapped a growth area. He also raised the issue of accountability. He noted that five times in the last five years they have been fighting the development in Princeton on the ridge which is PA-5 and Princeton still hasn't pulled back their sewer service area even though it was in the Plan Implementation Agenda. The area was supposed to be down zoned and protected. He commented that the Commission has yet to do anything about direct violations to the Plan Implementation Agendas. Mr. Tittel also addressed the fact that there had been two complaints forwarded to the Commission one on Morristown and the other on Wanaque and that they are still waiting for response. There was a discussion on the correct venue in which violations to PIA's should be addressed. Ms. Swan noted that she would look into the matter and respond at the next State Planning Commission meeting.

With no further comments from the public or the Commission, Vice Chair Byers moved to the next item on the agenda.

COMMISSIONER REPORTS

Kenneth Albert, Public Member

Mr. Albert commended Dr. Pruitt on his comments and further commented that one of the charges of the Commission is in fact to review infrastructure needs, to review statewide needs and to review capital projects and needs.

John Eskilson, Public Member

Mr. Eskilson commented that the Commission needs to look at not only the cost side but also needs to look at the revenue side as well and hopes that the Commission can be part of that discussion.

Adam Zellner, Department of Environmental Protection





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Mr. Zellner congratulated Eileen for putting together a great staff.

Brent Barnes, Department of Transportation

Mr. Barnes reported that the Department of Transportation is about to adopt a long range plan and that there are capital programs in place with the legislature. There is a new capital investment strategy in place that builds on the State Plan; they feel they are moving in the right direction. He also noted that the Department will be supporting this effort with an internal business plan which will move their resources internally to make all of these things happen in a much more efficient way.

With no further business or comments, Vice Chair Byers asked for a motion to adjourn, the motion was moved by Edward McKenna and seconded by Brent Barnes. All were in favor. The meeting was adjourned at 11:37 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "E. Swan".

Eileen Swan
Secretary and Executive Director

Dated: May 1, 2006