



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
NEW JERSEY STATE PLANNING COMMISSION
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JON S. CORZINE
Governor

SUSAN BASS LEVIN
Commissioner

CHRISTIANA FOGLIO
Chair

EILEEN SWAN
Executive Director & Secretary

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

CALL TO ORDER

Chris Foglio, Chair called the July 19, 2006 meeting of the New Jersey State Planning Commission to order at 9:45 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
Adam Zellner, Designee for Commissioner Lisa Jackson, Department of Environmental Protection
Brent Barnes, Designee for Commissioner Kris Kolluri, Department of Transportation
Monique Purcell, Designee for Secretary Charles Kuperus, Department of Agriculture
Marilyn Lennon, Public Member (arrived at 9:47 a.m.)
Marge Della Vecchia, Designee for Commissioner Susan Bass Levin, Department of Community Affairs
Debbie Mans, Smart Growth Ombudsman
Thomas Michnewicz, Public Member
Lauren Moore, Manager, Office of Business Advocate & Information, Commerce & Economic
Growth Commission
George Pruitt, Public Member
Christian Foglio, Chair and Public Member

Not Present

Edward McKenna, Jr., 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 May 17, 2006 meeting. Marge Della Vecchia made the motion and John Eskilson seconded the motion. Chair Foglio asked for a roll call vote. Ayes (13): Bernard McLaughlin, Kenneth Albert, Michele Byers, John Eskilson, Adam Zellner, Brent Barnes, Monique Purcell, Marge Della Vecchia, Debbie Mans, Thomas Michnewicz, Lauren Moore, George Pruitt and Chris Foglio. Nays (0). Abstains (0).

CHAIR'S COMMENTS, Christiana Foglio, Chair

Chair Foglio postponed her comments for later in the meeting.

EXECUTIVE DIRECTOR REPORT, Eileen Swan, Executive Director

Ms. Swan gave a general report on the work of that the Office has been doing since the last meeting. She noted that the rules for planning and zoning members were published in the July 17, New Jersey Register and that process was moving along. She reported that Plan endorsement meetings have been occurring and that the Office has met with Corbin City (Atlantic County), West Cape May Borough (Cape May County), Logan Township (Gloucester County), Fair Haven Borough (Monmouth County). In addition pre-petitions meetings had been scheduled with Washington Township (Mercer County) and Marlboro Township (Monmouth County). Public meetings were held on the Sussex County Strategic Growth Plan on June 1, 2006; on the Dennis Township (Cape May County) petition on June 29, 2006 and Stafford Township's (Ocean County) petition was scheduled for July 31, 2006. Further, completeness determinations were made on Dennis Township which was ruled complete on the May 17, 2006 and Stafford Township which was ruled complete on June 19, 2006. (At which time Marilyn Lennon arrived.)

Ms. Swan then reported on the status of the CAFRA towns. She explained that the office had conducted meetings with the following five CAFRA municipalities, Lakewood Township (Ocean County), Lower Township (Cape May County), Barnegat (Ocean County) Brick (Ocean County) and Egg Harbor (Atlantic County). Due to the flooding that happened in Trenton and the government shutdown the meeting with Dover Township was in the process of being rescheduled. In accordance with the Policy Directive the following municipalities now have the six month extension of time for them to work with OSG on the issues: Upper Township (Cape May County), Brick Township (Ocean County). Ms. Swan noted that following towns had signed the MOU but the Office had not yet received them: Dover Township (Ocean County) and Lakewood Township (Ocean County) and that the municipalities that have not signed, at this point included, Egg Harbor Township (Atlantic County), Lower Township (Cape May County), Middle (Cape May County) and Barnegat Township (Ocean County). Ms. Swan also noted that if the municipalities chose not to sign the MOU, it did not mean the office doesn't continue to work with them and work through Plan Endorsement. The office has sent letters of extension on the Middlesex Strategic Plan, West Amwell Township petitions and the Western Monmouth Regional Plan. The extensions are to allow for further subject matter to be submitted to OSG.

Ms. Swan reported that on June 28, 2006, the PIC met and a presentation was heard from Monmouth County on the Western Monmouth Regional Plan. Also presented was a draft consistency requirement document for both the county and the regional petitioners in order to do initial Plan Endorsement. The office hopes that these bars will provide greater clarity. She explained they are consistent with the guidelines that are currently in place, but at the request of many of the municipalities we felt that it was necessary to provide a greater

clarification and certainly in getting comments back from municipalities. After comments are received the Office will be bring them to the State Planning Commission and them to adopt them as an addendum to the Plan Endorsement guidelines.

Next, Ms. Swan noted that there was a brief PDC meeting following the PIC to discuss the statewide issues and would they would be discussed later in the meeting.

Ms. Swan explained that at the last meeting she was asked to put together a group to look at the public notification process as it relates to Plan Endorsement and then report on the outcome. (See attachment B). There was some discussion on whether the public hearing by the municipality could be done during a regularly scheduled meeting or if it had to be a special meeting. Ms. Swan responded that it could be done at a regular meeting; but that the Office would request that special notice go out to the residents. There was no further discussion by the Commission on this matter at this time.

Ms. Swan then, reported on the rebirth of Cross-Acceptance. She noted the process was started some time ago, and according to the State Planning Rules every three years we go through this Cross-Acceptance process in order to come up with a new State Plan or Redevelopment Plan, and OSG had gotten to the point where the counties/municipalities had done their due diligence and had come back with their responses to the Office of Smart Growth.

She explained that during this time, the Department of Environmental Protection had brought to the attention of the Office of Smart Growth the fact that they had an analysis of their data that they felt required inclusion in the mapping process, and that in the debate the Cross-Acceptance process was actually stalled and nothing had moved for over a year and-a-half. She explained that it was critical for all the processes that are done in the Office of Smart Growth to have a firm foundation, and that foundation being the State Plan. Further, it was also critical that all relevant information be taken into consideration, so that the State Plan becomes reliable and predictable. For that reason, the Office of Smart Growth sat down and had lengthy collaborative discussions with Department of Environmental Protection and took a long hard look at the data DEP was asking to include.

She explained that during those conversations the mapping protocols of the State Plan were also considered. The office looked at the Planning Area changes that DEP were requesting based upon available data and discussed with DEP the criteria that OSG should make decisions on what is actually relevant and important and should be considered. There were various criteria that DEP looked at and determined that they needed to have a certain level of reliability.

The Office ended those discussions, protocols were adhered to and both GIS departments worked very hard, in particular, the GIS Department and Office of Smart Growth to make sure state planning protocols were adhered to. She explained that some of the Planning Area changes that were requested would be shown as Critical Environmental Sites and the rational for that was ...for example, if a Planning Area change was being requested and was in fact a stream corridor that bisected a Planning Area 1 or 2 and was now to be changed to a Planning Area 5 , this was not considered to be advisable and that it would be better if that be flagged as a critically environmental site, so that due diligence would be observed in the planning that would occur in that area.

She further explained that there was ground truthing that took place with aerials that are at OSG's disposable to make sure that what we were requesting would in fact be true to what is in existence in the Planning Areas. In addition, there were some areas that are absolutely critically important, from an environmental prospective, but it was felt because of the nature of their size that they would be best mapped and set out for informational purposes and would then be addressed in the Plan Endorsement process. She noted that DEP would obviously continue to address them in their regulatory process, but it was important municipalities and counties be aware of the areas too.

She also explained that some of the changes that DEP requested had already been requested by the counties and municipalities, so that data is also shown on the maps today in order to get the full picture. However, the rest of the information that the counties and municipalities had requested was not shown on the maps because they would be dealt with during the Cross-Acceptance process as it moves forward.

Ms. Swan noted that the information was absolutely relevant data and that was why the decision was made to include the information. Noting that it leads to that greater predictability where growth may or may not occur. Further, the inclusion of relevant data from each and every state agency is important because we want each and every state agency to believe in this process.

She explained that if there is buy-in from each of the state agencies, then we have a process that will work and the benefits of Cross-Acceptance and Plan Endorsement will follow, but the first step is to have a firm foundation.

Ms. Swan then reported that the office would be sending out the GIS files to the counties and that the Office held two conference calls in the last two days with a number of the county planners to advise them of what was happening to answer any of their questions.

She then explained that the office had put together an extremely aggressive schedule for meeting with the State agencies and the counties. At the request of Chair Foglio Ms. Swan briefly reviewed the gross effects of the Planning Area changes. The following numbers are the DEP data as it is shown on the maps, and that is being collaboratively agreed to: 62,600 acres, approximately, are moving to Planning Area 5; 2,100 acres are moving to Planning Area 4B; 11,700 acres will be marked as Critical Environmental Sites; 1,100 acres will be moved to PA1; 3,100 to PA2; and 550 acres to PA3.

Ms. Swan clarified that the particular changes to PA1, PA2 and PA3, some of the changes were necessary to adhere to planning protocol and where the DEP data overlapped the county data it too is reflected in the mapping, there are approximately 12,500 acres moving into PA5 and PA4B and about 7,500 acres moving into PA1, PA2 and PA3.

Ms. Swan then explained, the schedule, which is the most aggressive schedule the Office of Smart Growth feels it can hold to and are determined that it can be achieved. She stressed that any changes requested by a county in this schedule will be met, and if they feel they need more time or an additional meeting, they will be accommodated. She then discussed how the schedule was broken down and meetings scheduled. Ms. Swan also noted that conversations about the GIS data that will be sent to the counties did not have to wait until a county meeting was scheduled, they could start immediately.

Ms. Swan thanked Commissioners Susan Bass Levin and Lisa Jackson for their time and attention in helping to get the process moving forward. She also thanked the OSG staff for their time and effort on getting to the where the information could be brought to the Commission. In addition, she thanked the State agencies staff members for their collaborative effort and team building spirit.

Chair Foglio clarified that the map changes were a presentation which requires no vote or acceptance, so it was not an item that would be up for vote today. Chair Foglio noted that she was concerned about and has asked the OSG to consider the public notification process. She was concerned that there could be a change that affects a property owner and they would not be aware of it due to it being summer and notifications happening during vacations. She asked that a memo be sent from OSG to key organizations, such as the New Jersey Builders Association, NAIOP and other interested parties that participate in the process asking them to advise their members of the changes.

Chair Foglio requested that in terms of public comment that since the Commission was not voting on the map, she asked the public keep comments on the map directed to the policy and procedures, as opposed to specific changes on the map.

COMMITTEE REPORTS

Plan Implementation Committee, John Eskilson, Chair

Ms. Eskilson reported that the PIC would be meeting on July 26 to continue the discussion of regional and county plans, the process, their relationship to municipal plans and what it all means as the Commission moves forward.

Chair Foglio asked for comments from the members on the map

Monique Purcell questioned if there was going to be a discussion as to what the relevant criteria was in terms of what made the information one that should be mapped? She felt that it was very important to know what the threshold was to the mapping. Ms. Swan responded yes and that the difference was between where we are now versus the information that was provided to the counties a while back for informational purposes. Lastly, Ms. Purcell questioned if the information would be handled during Cross-Acceptance and if the map is officially being changed? Does it go out to the county and if the county has contrary information, they might say we disagree with that change? And is there going to be the ability to address those changes? She felt it was really important to discuss and talk about how that will be treated in the process.

Ms. Swan responded that she could say yes to each of the questions, and that the Office did receive letters on the mapping issues from the Morris County Planning Board, from the Somerset County Planning Board and from the New Jersey County Planners Association. And that those letters have been shared with the State Planning Commission members. Yes, the Office will provide the information, the schedule is out and meetings will be held with the counties. Lastly, if they have information that is different from the information we're giving out and they can tell us that their map tells us something other than what we're showing them, obviously that's what we are there to do, to listen to them and take those comments into consideration. Just as we would in a normal process going through the negotiation phase.

At this point Chair Foglio opened the floor up to public comments. She noted that comments at this time should only be for comments on only the proposed map and schedule.

PUBLIC COMMENTS

Jeff Tittel, director of New Jersey Sierra Club commented on the fact he has been fighting to try to get a natural resource base interpretation of the State of New Jersey into the State Planning Map for a long time. He explained that there were many places where there are tremendous natural resources that were mapped for growth some time ago. He feels it is an important step forward to start taking a look at what the natural resources are. He also feels that we need to start ground truthing and looking at the resources we have in the State and start trying to come up with ways to protect them before they are no longer there. In addition, he feels there are areas that we need to start looking at for hazard planning and other things, given the floods and the coastal surges to have some of those areas as growth areas makes no sense.

He also mentioned that if there is going to be outreach it should not be only the affected property owners, because affected property owners don't just mean people who are in the business of development. They are the community groups and citizens who live in the places and who probably have the best knowledge of what's happening on the ground and who are also greatly impacted.

He agreed that the map needs to be ground truthed and feels it a process that's long overdue. He felt the delay really happened because of those people who did not want to go out and bring natural resources into the

last round of Cross-Acceptance. He hopes that the process will go forward and we can make those changes so that we will have protection for some of our critical endangered species and to make sure that areas next to our reservoirs and are above the intakes are not going to become major growth areas.

He also noted that on the other side, for DEP which generated the data, he hopes DEP itself takes a look at some of those areas and starts saying, maybe this shouldn't be a sewer service area and implement their own changes and things internally, not just to say, well, the State Planning Commission is wrong because this map is outdated.

Lastly, Mr. Tittel noted that this was something that's been long overdue and there will be some criticisms, but he thinks this is a good opening and a good way to start.

Bob Kull, Regional Planning Coordinator for Burlington County commented that Mr. Tittel's assertion that no one considered the environmental information in the course of Cross-Acceptance is false. He explained that his county provided overlays to every municipality showing all the environmental sensitive areas including the endangered and threatened species mapping. He noted that their mapping process won a statewide award in a state mapping competition held at DEP for the inclusion of these and other factors. He also noted that there's also the caution that the understanding of Critical Environmental Sites in the State Plan is that the mapping of these areas is advisory and not regulatory and that Critical Environmental Sites are regulated under their own rules. He noted that the benefit of mapping Critical Environmental Sites is to call attention to developers and communities that this is an area in which you should expect a greater amount of regulatory oversight. He noted that he very much appreciated the Commission's position in terms of the timeframe and being provided adequate time to work with the municipalities and that's not a problem. He also noted that there is a cost factor with producing more maps and so on and with extension to their initial cross-acceptance grant they could use some of those funds to accomplish the task.

He noted that the preliminary map was part of the preliminary plan that was released by the Commission by resolution, and questioned as to the status of the mapping that's before the Commission. He questioned what authority did the Office of Smart Growth have to put these additional pieces of information on the table representing a change? And that it was essentially representing a change in the preliminary plan that we need Cross-Acceptance. He needs to know when he represent this to his Board of Chosen Freeholders and municipalities, it becomes a question of, is the State Planning Commission supporting this.

He respectfully requested that since the Commission is seeing this at the same time as the counties, he doesn't expect the Commissioners to support every single, square inch of map changes on there, but as a matter of due process, believed it to be appropriate, if not this month, at the next meeting, for the Commission to take a formal action to place these map changes as part of their negotiation agenda.

Ray Zabihach, planning director for the Morris County Planning Board, thanked the Ms. Swan for notifying him and letting him know that the letter that the Morris County Planning Board sent was circulated to all the Commissioners, and asked that they do get a response. Because in terms of them proceeding, they really want to know the full implications of their concerns.

He also reinforced what Bob Kull said, since this adds a new layer of information and that as they cross-accepted the preliminary plan, it does create a procedural problem, and if the Commission itself does not endorse that, why are we going back to our municipalities? He strongly recommend that if the Commission wants this process to continue -- and they are hoping because of their letter that the SPC cease and desist and just go on and do the Cross-Acceptance process and go to negotiations with what was done a year and-a-half ago and finish this process. He explained that new information never stops and you have to follow certain procedures, a certain process and when you change the rules midstream it causes confusion. He strongly recommended for that for Morris to proceed, as a county to go back to municipalities, the Commission better support those changes. He noted that he was grateful for the time is being afforded to the counties and

municipalities and they will take as much time as needed get through it. He feels it's only fair to all those people who were involved, the time, the money spent for municipal responses, that they are give them equal time with these new changes.

John Eskilson asked Mr. Zabihach that if the Commission was to cease and desist and ignore these for the time being because there is already maps in play, but knowing they're out there and going through and finishing the Cross-Acceptance process with these working in the wings, knowing all that information is going to be used in the regulatory process, is going to be used as soon as we're done with Cross-Acceptance, how do we solve that dilemma? Mr. Eskilson felt that if that was done the Commission would not have been upfront with municipalities in that way either. There was a lengthy discussion on how the dilemma might be solved.

Chair Foglio noted that she felt it was important for the public to know that the members of the Commission were just seeing the changes also and that it was not something that had been developed by the Commission. She questioned if instead of having to adopt the map changes in any formal way to change the map, couldn't it be a notification that when OSG comes to the table, and you begin your negotiation process, these are the items that are going to be highlighted as part of that negotiation? And so it just becomes information and comes in play and at the negotiation process.

There was a lengthy decision on how the information was being distributed and that it was adding another layer of information and that there should be an official sanctioning of what is going to happen. Also, discussed was that fact that the information was not new information that it was further analysis of the information that was sent out previously.

Ms. Byers commented that she wanted to say on the record, that this was a reconciliation that's been overdue for a really long time and commended the Office of Smart Growth and the DEP for breaking the wall down. She noted that talking about time spent and confusion and misinformation and lack of clarity, that's what has been happening for the last two or three years creating a logjam. She felt this was a move that was going to break that process and really bring the two agencies and the other agencies together. She felt it was a welcome change and if the Commission needs to make it formal, it will do whatever needs to done to make it formal and was a 100% behind it and was very, very pleased to say that it's a major breakthrough in how state agencies deal with changes.

Kamal Saleh, Union County Planning, echoed comments already made in terms of the process. He also commended Eileen and Adam in terms of OSG and the DEP's work in the whole process. Mr. Saleh commented that there may be potential negative impacts that may occur because of the type of credibility that was established during the initial cross-acceptance process and that this may erode in terms of providing new maps and new data and again creating this whole process again with the municipalities. He also noted that he was concerned with the very aggressive time frame especially with some of the changes that will have to be reviewed with municipalities and this could add to the difficultly. He noted that they will work with OSG and DEP, and the other agencies in terms of getting this through. He also explained that most municipalities and counties have limited resources and the changes will add to the burden. He also questioned whether other agency reviews have been completed as well in terms of what was reflected on the map.

There was a brief discussion on the logjam that resulted from a variety of factors and whether the other agencies such as Agriculture and Transportation had an opportunity to review the changes.

Debbie Mans spoke on behalf of the Governor's office noting that time and time again the Governor has stated that predictability and transparency in government is of utmost importance, and what we're trying to do with these posted mapping changes is to get us there. She noted that it makes no sense to look at one document and then have your expectations based on that and then move over to the DEP and have a different set of circumstances presented to you. She noted that the agencies will want to see what's going on, but from the Governor's office, they see this as a step in the right direction.

Christine Sturm, New Jersey Future, noted that she came to the April 2005 Commission meeting and testified on the need for a transparent, accurate and consistent map, so she was actually delighted to be here for the discussion today. She acknowledged the burden that this work has placed on the agency, on OSG, the burden that it's going to place on the counties, but felt that this burden was essential for the vision of the State Plan--where there will be stronger communities and preservation of open land and open space. She also commented that as an advocate for the State Plan, she cannot push agencies to link programs to the State Plan, she cannot push them to give benefits for Plan Endorsement, and cannot push communities to participate in Plan Endorsement unless there is a credible State Plan which includes a map that has more accuracy than the one that precedes it. She noted that the Commission needs to be actively involved in taking this Plan to the local level. Further noting that there are a number of other things that are happening that require an updated State Plan, such as DEP revising their waste water management planning rules now and must be completed by the end of January. She urged the Commission to work with DEP and get involved in this issue as soon as possible.

Ms. Sturm also noted that the governor is promoting economic development and is desperate to get new corporations located in our State to generate tax revenues. However, she doesn't think that he's looking at the long term vision of the State Plan. Lastly, she urged the Commission to consider what role it can play in using the Plan Endorsement process to get municipalities prepared for growth.

Laurette Kratina, Somerset County Planning Board commented that their board, the Somerset County Planning Board met and reviewed the statewide policy issues and we discussed the mapping issue, and that one of the major concerns of the board is that State agencies, all of the state agencies are in agreement with this map. She explained that Somerset County, worked very closely with Barry Ableman in reviewing each and every mapping change after the comparison phase and after the Cross-Acceptance reports were submitted. There was a process of identifying those changes that were very obviously agreeable from the Office of Smart Growth's perspective and a series of changes that there were some questions about. They then went through another round of information gathering and meetings at the local level to refine those changes and remapped those changes. They documented the reason for every single change following all the state mapping criteria and rules. She noted that she personally feels that it is inappropriate not to show those county planning changes that were identified in the final Cross-Acceptance reports and that have been through the rigmarole that was gone through with the towns, and not to show those changes on the map is only giving half the story. She noted that they didn't have the full picture and what they are reacting to is only a piece of the information, and that she believes that that local information is better in terms of the 2002 information, since they have current site specific information that was used.

Eric Snyder, Sussex County Planning Director, felt that the most important point that's been made is that the Office of Smart Growth, when it comes to negotiation, be the spokesperson for the State of New Jersey and all of its collective agencies. He feels that it makes no sense for two parties to be negotiating if there are discussions that could negate whatever comes out of those negotiations. He explained that it took Sussex County a long time to put together their county strategic growth plan and they did it with a strong environmental basis, a strong economic basis and with the understanding that the Planning Areas are important in their use as flags, but that growth in the areas which are Planning Area 4, 4B and 5, can and still should be accommodated, so he didn't regard the new map, as an impediment. He feels it is a necessary element of the discussions because those elements are going to come into discussion like it or not and it's entirely appropriate that people know up front what the issues are that will be raised. He feels that ignoring information seems to be counter productive, so Sussex County strongly supports getting this process moving. They feel that the Office of Smart Growth is making a very credible effort to reestablish the momentum that was lost. Mr. Snyder also noted that as a matter of process that the criteria by which changes were made be very clearly laid out and has no problem with the new information being provided at this point because they also have new information.

Myra Becker, Middlesex County Department of Planning, noted that she was in awe of this initiative. She thinks that it is wonderful that OSG has been working with DEP, so far to try to create a map that everyone can buy into as Cross-Acceptance moves forward and it's great to see that the stalled process is moving forward. She questioned what happens when the Cross-Acceptance process and the Plan Endorsement process literally dovetail? For example, she noted that Middlesex County, submitted a group one application, and is moving forward to address consistency issues around the application. As they move forward with Plan Endorsement on the group one application, they are going to be dealing with Cross-Acceptance issues. Can they use the Plan Endorsement process as their Cross-Acceptance process tool?

Ms. Swan responded yes, because Plan Endorsement is really the deeper digging down of the allocation of items that should also be in the Cross-Acceptance process and its necessary that one is consistent with the other. She explained that the office would work Middlesex on both processes to make it as simple as possible.

Barbara Palmer, Association of New Jersey Environmental Commissions thanked the Office of Smart Growth for their efforts to get Cross-Acceptance started again. She noted that OSG has issued an ambitious schedule for Cross-Acceptance meetings with the counties and raised a concern whether Cross-Acceptance would function as it was intended. She noted that the OSG staff and Commission members will be attending a lot of meetings and there are at least two seats that are open. She urged the Commission to do anything it could to get the seats filled, because it is important for the workload to be shared, but it's also important that the public is adequately represented as the Commission moves forward on this next edition the State Plan.

Ms. Palmer also commented on the memorandum regarding public participation on petitions for Plan Endorsement. She noted that from the wording of it, it was not clear if the two proposed public meetings would replace the current one public hearing that is held when it is requested by the public. She noted that in principal, it's not a bad idea to have the meetings be the responsibility of the petitioner, but in practice, most residents don't read the legal notices, and unless a petitioner actively engages the stakeholders, they aren't likely to take notice. She urged the Commission to expand on the mandatory publicity for the petitions, and to have the petitioner publish press releases in the local newspaper, on their town web site, in newsletters, etc. but make that a mandatory step.

Helen Heinrich, New Jersey Farm Bureau, noted that everybody was anxious to get this process going again, but questioned how many of the state agencies have had the chance to review the map and compare it to their own programs and the subsequent benefits that might come from being mapped here or there? She also noted that how could anybody come to a negotiation session if they don't have assurance that the OSG brings new information that has buy-in from, Commerce and DOT and Agricultural? She questioned if the Commission would want to put a little bit more time into the schedule in order to make sure this step gets taken care of?

Ms. Swan responded that as the schedule is set forth, the first meetings that are on the schedule are internal Office of Smart Growth meetings. The next set of meetings is then state agency meetings. She explained that we have information from one particular agency, but made sure that OSG didn't change other issues that had already been addressed with the other agencies.

Ms. Heinrich further noted that the meetings were not public and feels that there needs to be a public expression from the agencies that they have reviewed the changes and don't have any issues or they reviewed it and they do have issues and hopefully those are resolved and negotiated.

There was a lengthy discussion on the issue of the other agencies reviewing the map and supporting it and whether or not those agencies new incentives that are taking place were considered, such as the economic plan that would be coming out from the Governor.

At this time Chair Foglio requested a five minute break.

Chair Foglio reconvened meeting and continued the public comment portion.

Noelle Reeve, vice president of planning , Regional Planning Partnership commented that they were very pleased to see the Cross-Acceptance process starting to move forward and are extremely pleased to see that the state agencies are coordinating through the Office of Smart Growth. She noted that they believe that the issues for transparency and predictability are essential, and believes that this new information should be included and recognized how hard it will be for counties to go back out with the new information. But any other way would just be hiding new information and would not be doing a service to the public. She noted that it is RPP's desire to see a meaningful State Plan, and it is their understanding that under the Act, the Office of Smart Growth will be able to draw on information and input from all state agencies to synthesize it, to guide growth in appropriate places, and hopes that this a move in the right direction.

Mike Cerra, representing the State League of Municipalities noted that he had some mixed emotions. He explained that he has spoken before the Commission expressing some frustrations with the process in the past. He noted that he understood that the process has to move forward and explained that the municipal governments that he represents have invested a great deal of resources into this process, and it has to move forward, so from that regard, if this was what it takes to go forward, then maybe it is a good thing. He noted that he couldn't comment on what's presented today. He hoped for everyone's sake that there aren't too many objections to it and that the process can move forward and that if objections are raised; he will be bringing them to the Commission.

He commented that he hoped and believed that the intent, that the Cross-Acceptance and the Plan Endorsement process is benefiting from this and enticing to the whole idea of state agency buy-in. If this is being done and this is the road we're going, the local governments are going to expect state agencies to buy-in and provide those incentives. He then questioned if a local government could propose map changes now and how is that to be done? And was it part of the negotiation process, can it be put forth now? And if they can't do it, to know why.

Ms. Swan responded that Mr. Cerra's questions were brought up in one of the conference calls the Office had with the County Planning Directors. She explained that if there is relevant on the ground information, then that information should be brought to OSG's attention during negotiation phases. Ms. Swan also noted that the GIS files will be available to the counties so that the conversations can begin sooner rather than later. She further explained that OSG will have internal OSG meetings, and then the agency meetings. If a state agency has an issue or problem, it is brought to the table well before first meetings with the counties.

John Peterson, Deputy Director, Regional Planning Economic Development in Atlantic County, commended DEP and DCA, Office of Smart Growth in moving the process forward. He noted that he looked at the map and clearly can't make any judgment until he has the files and does an analysis. He explained that the some of the policy issues are that right now the existing accepted endorsed map is utilized for DEP regulations and impervious cover regulations that regulate based on a less than solid previous map. He explained that it was very important for Atlantic County, since they are regulated by both the Pinelands and CAFRA. They cannot do true regional planning as a county as a whole because of those competing regulations. They hope that through the state planning process, they can somehow get those two agencies and those two plans to be contiguous with each other and to work together.

Sue Dziamara, Hunterdon County Planning Director, commented that Hunterdon is happy to see this process move forward. She encouraged all state agencies to come to agreement on the map that's going to be put out for public scrutiny and that it was very important that they have that information before they go back to their municipalities. She also noted that they feel that there are many map changes that OSG and the counties have already made agreement on, and perhaps when the information goes out to the counties, there might be

an additional map that also shows where those areas of agreement on map changes are, so that doesn't prolong the discussions over what needs to be changed.

Robert Kull, Burlington County, commented that his initial comments, before a series of county planners, may have lead to a misunderstanding. He noted that Burlington County is very supportive of getting this Cross-Acceptance process started again. His comments inferred no delay in moving the process forward. He explained that in terms of the support of the state planning process, he was probably no better advocate of the process in the room. He noted that he spent 15 years on staff and helping to get the process started, and is very committed to it personally and in working with the counties and municipalities in the process. His concern is that these changes are not taken as just an initiative of the Office of Smart Growth, that the Commission demonstrates that they know what you're doing by this, that you're committed and engaged and see what the possible implications of this might be for yourselves and not to stop the process at all, not to slow it down. He further explained that once he receives the information he will be reaching out to his municipalities. He asked that the Commission legitimate the process. You're not amending the plan. Simply have the Commission endorse the information and add it to the negotiation agenda.

Bob Talon, Mansfield Township representing the Watershed Association, Crafts Creek, Spring Hill Watershed Association, explained that he was trying to get a basic understanding of the process. He questioned if the process was more or less a line in the sand that says this is where we want to do things and develop and this is where we want to save open space? He also questioned if ground water resources play into the maps? And will information that may not have existed a few months ago that exist now be incorporated into any changes in these maps from our local area, if we know of a huge cone of depression that's increased?

Ms. Swan responded that in a simplistic manner it is a line in the said and yes ground water resources play a role in the map. She also suggested that if Mr. Talon, had information that he felt was valid he should bring it to his county.

David Pringle, campaign director New Jersey Environmental Federation, noted that he was pleased that OSG and DEP have set forth this data. He also noted that it was the first step and should have been done 20 years ago. He noted that the 98,000 acres should be put up for negotiation and it is clear that DEP has regulatory authority. He explained the need for the State Plan to affect reality and we all know how, to date, relatively meaningless the CES is and that the policies need to be revamped to make them more meaningful. He noted that critical data was missing which was water. Notwithstanding the assessment that ground water resources are affected in the State Plan Map, the data before everyone doesn't include what kind of development is going to occur upstream or what surface water intakes and how to recharge the areas. While this is a step forward, he feels DEP made a strategic decision. It was difficult to get this far, they had to make strategic decisions not even put forward water data because it's so difficult to get OSG and the State Planning Commission and the county to even engage in that, so hopefully this is a step forward. He noted that it was a new day with new leadership in the Office of Smart Growth, but we do need to move much more aggressively forward and urged the State Planning Commission to take on that role in a way that has never been done by the SPC before.

Seeing no further public comments, Chair Foglio closed the public comment portion of the meeting. Chair Foglio asked Dan Reynolds, Deputy Attorney General to the Commission to advise the Commission as to what official step would need to be done by the Commission in order to get a consensus noted. She asked if there anyone at this point who is uncomfortable with endorsing the information to be available to counties and municipalities?

Brent Barnes noted that DOT was an unnamed co-conspirator in all of this, but they have been very much part of the conversation that's gone on and expected that they would continue to be. He noted that they all work from the data layers, they share these data layers among the departments, and thinks that there's significant agreement that everyone is on the same page with the various data types that are on the maps, so he was generally comfortable with that. He further noted that with regard to the maps that were on display, he felt it

was important for us to step back and look at those, but felt that they would have the opportunity to do that over the next month and-a-half or two months as the schedule that's been proposed lays out, so he was perfectly comfortable from DOT's perspective, in the way that's it's been proposed

Ms. Purcell noted that from the Department of Agriculture standing, they are very interested in moving the process forwarded, but are also interested in looking at the additional information that being provided and felt that they could look at it, analyze it and continue to it through the process laid out to with the internal OSG meetings.

Ms. Lennon noted that a lot of work has gone into preparing these maps and she is concerned that it will take a life of its own. She commented that the map is a tool to a greater policy discussion, and was glad it was pointed out that there will be 42 meetings that she as a public member will be attending over the course of the next year. Further noting that the Commission is dealing with greater issues here, where people are going to live and work. She feels that the Commission is laying the ground work and if they get past today, this is one of the tools in the greater discussion of infrastructure and growth and no growth and in terms of her comfort level, she was glad that they are at this point, and really anxious to move forward and get the agencies engaged and the public engaged.

Chair Foglio asked Dan Reynolds, DAG to advise the Commission on how to address the consensus.

Mr. Reynolds responded with some very general comments concerning the State Planning Act itself, explaining that when the Act was enacted, it constituted the Commission to be comprised of three categories of members: seven representatives of the executive branch, four representatives of the county municipal government and six private members. He noted that the legislature didn't specify other than for the state Department in which the Office of Smart Growth was located, which state agencies should be represented on the Commission, but every governor, since Governor Kean, has decided that the same Departments should be represented on the Commission including the Department of Environmental Protection. He felt that this reflected a determination by each governor along with the Department of Transportation, Treasury, Community Affairs, Commerce, Agriculture, that these are the state agencies whose points of views, whose experience, whose background should be brought to bear on crafting the State Plan. He noted that he made those comments only because he feels it is entirely appropriate, and that it has been recognized by the courts in some decisions that they've rendered in regard to the State Plan, that the views, the input, the knowledge, the expertise, the experience that these agencies can bring to bear on crafting an appropriate State Development Redevelopment Plan are important. He further explained that it is intended that that knowledge and that experience be considered by the Commission and utilized by the Commission in drafting the plan.

He noted that in addition the legislature established a statute of process by which the Plan was to be adopted. That being the Cross-Acceptance process and that the statute is somewhat general on how that process is supposed to work and it is left to the Commission to adopt regulations to more specifically describe how the process would be arrived out. The purpose is to develop a proposal, preliminary plan and then present it to the elected representatives of the local governments in the State of New Jersey, the counties and the municipalities, so that they could react to it, so they could have input which is to be considered by the Commission in crafting the final plan.

He explained that to the extent that there have been concerns raised about the fact that the process started and now some additional new information is being put into the process, did not trouble him, so long as the county and municipal governments that are essential participants under Act are afforded a reasonable and adequate opportunity to react to that information. He further explained that the decision today only deals with one part of developing the Plan. He then explained that process in which development of the plan takes place from preliminary plan, comparison phase, negotiations phase, impact assessment (taking in to account economic impact, environmental impact and intergovernmental impact). After the impact assessment, further revisions are made; the plan goes out and is required to be vetted in six more public hearings. During this

entire process discussions and revisions are taking place. From his legal point of view, it doesn't pose a problem that this additional information was being introduced into the discussion now so long as the counties and municipalities have an appropriate, adequate and reasonable opportunity to respond to it.

He also commented that as he understood it that there is no suggestion that the policies set forth in the preliminary plan are being changed. What is being talked about is sending information out to indicate how the application of those policies to the actual features, features on the ground, be they natural features or developed features, that policy should be applied. He further explained that it has long been the advice of the attorney general's office that the Commission cannot revise the Plan itself, that being the policy without going through the Cross-Acceptance process. By this same token, for the same period of time, it has been the advice of the attorney general's office to the extent that the application of those policies on the ground through map amendments does not require going through the Cross-Acceptance process. The map can be changed in light of factual information without going through the Cross-Acceptance policy. He made that point because to the extent that the Office of Smart Growth in consultation with DEP, and to an extent the other state agencies, as a Commission, given new information or information that hadn't been fully digested yet, but to the extent that there is information that will come to the attention of the Office of Smart Growth now that warrants revisions in the map, the fact that that's being done, it is not problematic. He explained that during the Cross-Acceptance process, if a municipality/county wants to come to the Commission and say we think this policy is wrong, that's the time to make the changes to the policy, but we're not even talking about change in policy. We're talking about revising the map to reflect how the policy is addressed. Lastly he recalled a decision that was rendered earlier this year by the Appellate Division upholding decisions that the Commission made to designate certain centers in Sussex County. In rendering that decision the court noted that the plan repeatedly talks about the fact that the policy of the plan and the criteria of the plan are supposed to be applied flexibly. The plan repeatedly states that the policies and criteria for designating centers and Planning Areas are to be applied flexibly. He felt that same approach is appropriate with regard to the procedure to be utilized so long as those entities that are supposed to participate in the policy and in the process are afforded a reasonable adequate opportunity to do so.

Chair Foglio clarified that the Commission needs to pass a consensus resolution to include the information as additional information to be used during the negotiation process.

Mr. Reynolds responded that as he understood it there is information that's been produced as a result of quite a bit of time and effort by the Office of Smart Growth and DEP, that is to achieve the ultimate goal that the legislature intended to be achieved in the State Planning Act which is adoption of the State Development Redevelopment Plan which identifies areas for growth, conservation, agriculture. He has not heard anyone on the Commission express the view that this is not information that should be considered at this point and the schedule that was distributed allows for adequate time for the interested parities to review the information and that he did not perceive it to be anything inappropriate.

Mr. Albert questioned if Mr. Reynolds was recommending the Planning Commission ultimately, after due process or due cause endorse the changes? Mr. Reynolds responded that he felt that these mapping changes, the whole plan, the policy and the map are going to be subject to negotiation.

Michele Byers made a motion that the Commission move forward and accept what's proposed by staff in terms of both the map changes agreed to and the schedule so that the Commission can move forward in the process. Chair Foglio asked for a second, Adam Zellner seconded the motion.

Mr. Eskilson asked for clarification on the motion which was to move it forward for the purposes of utilizing it as a State Planning Commission's position in Cross-Acceptance negotiations. Chair Foglio confirmed yes.

Chair Foglio asked for a roll call vote. Ayes (13): Bernard McLaughlin, Kenneth Albert, Michele Byers, John Eskilson, Adam Zellner, Brent Barnes, Monique Purcell, Marilyn Lennon, Marge Della Vecchia, Debbie Mans, Thomas Michnewicz, Lauren Moore, and Chris Foglio. Nays (0). Abstains (0).

Chair Foglio explained the next issue on the agenda was the statewide issues discussion. However, she was afraid that they may lose a quorum.

Mr. Spinelli indicated that to go through the document itself would take a few minutes to discuss the parameters of what was done but the entire discussion was dependent on how many individuals from the public wanted to speak.

There was a brief discussion that the statewide issues were to be discussed at a prior PDC meeting but the discussions were cut short do the flooding in Trenton. It was determined that the statewide issues should go back to the PDC for further discussion prior to coming before the full SPC. It was announced that that public comments would be taken by email or in writing through August 31st and an additional PDC meeting would be scheduled prior to that deadline.

Chair Foglio asked for a motion to adjourn, the motion was moved by Brent Barnes and seconded by John Eskilson. All were in favor. The meeting was adjourned at 12:30 p.m.

Respectfully submitted,



Eileen Swan
Secretary and Executive Director

Dated: September 6, 2006