



State of New Jersey
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JON S. CORZINE
Governor

CHARLES A. RICHMAN
Acting Commissioner

**New Jersey State Planning Commission
Minutes of the Meeting Held December 16, 2009
State House Annex, Committee Room 1
West State Street
Trenton, New Jersey**

CALL TO ORDER

Edward McKenna, Chair, called the December 16, 2009 meeting of the New Jersey State Planning Commission to order at 9:43 a.m.

OPEN PUBLIC MEETINGS ACT NOTICE

Deputy Attorney General Lisa Ruch 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

Kenneth Albert, Public Member
Ronald Chen, Public Advocate (arrived 9:51am)
Brent Barnes, Designee for Stephen Dilts, Commissioner, Department of Transportation
John Eskilson, Public Member
Roberta Lang, Designee for Douglas Fisher, Secretary, Department of Agriculture
Elizabeth Semple, Designee for Mark Mauriello, Commissioner, Department of Environmental Protection
Charles Richman, Acting Commissioner, Department of Community Affairs
Shing-Fu Hsueh, Mayor, West Windsor, Public Member
Edward McKenna, Chairman, Public Member
Louise Wilson, Public Member

Not Present

Kris Kolluri, Chief Executive Officer, Schools Development Authority
David Rousseau, Treasurer, Department of Treasury

Others Present

(See Attachment A)

PLEDGE OF ALLGIANCE

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

APPROVAL OF MINUTES

Chair McKenna asked for a motion to approve the minutes of the November 24, 2009 meeting. Commissioner Wilson so moved and it was seconded by Commissioner Barnes. There was no discussion, Chair McKenna asked for a roll call vote. Ayes: (9) Kenneth Albert, Brent Barnes, John Eskilson, Roberta Lang, Liz Semple, Charles Richman, Shing-Fu Hsueh, Louise Wilson, Ed McKenna. Nays: (0). Abstains: (0).

CHAIR'S COMMENTS

No comments at this time.

EXECUTIVE DIRECTOR'S REPORT

Secretary Rendeiro reported that a pre-petition meeting was held with Branchville (Sussex County). The office was currently working on Opportunity and Constraint Reports for Bridgewater Township, Sandyston and Montague and is currently working with Lakewood on their Action Plan and that Middle and Ocean were recently approved for their Action Plan.

The office has begun having interagency meetings to discuss general topics and policy issues so that it can come together with a joint recommendation on many of the current topical issues. The team has met on TDR as well as the NJ Transit Friendly planning process that is being developed. The statewide TDR Task Force has been reestablished and the office is working closing with the task force so that the process is implementable from the State perspective. Salem County is also creating its own task force to develop TDR within the county. Staff is also working with the Highlands Council on a bill sponsored by Senator Karrow to identify TDR receiving areas for the Highlands outside of the Highlands area. Urban TDR is another topic being discussed; Jersey City specifically is looking to do a TDR process for their historic assets and looking to transfer some development out of the historic areas. She explained that Urban TDR has some unique issues given the urban responsibilities and structure. The office is looking to see how it could create a program that is unique to the urban areas, these discussions have just begun and OSG is working with the interagency team to make sure the processes are implemented smoothly.

Secretary Rendeiro noted that in January the office would like to bring a presentation of the Route 1 Corridor Study to the full Commission, which is being lead by DOT. The office is also looking at creating a DOI:T event to address any of the land use issues that may come out of the ARC Tunnel. There are a number of municipalities that will have unique and similar issues related to ARC.

Secretary Rendeiro noted that the agenda contained a resolution regarding the 2010 meeting schedule for the Commission's approval. She also noted that a list of PIC meeting was provided and that those meetings did not require a resolution.

Chair McKenna asked for a motion to approve Resolution No. 2009-09 regarding the 2010 schedule for the State Planning Commission. Commissioner Albert made the motion and it was seconded by Commissioner Barnes. There was no discussion, Chair McKenna asked for a roll

call vote: Ayes: (9) Kenneth Albert, Brent Barnes, John Eskilson, Roberta Lang, Liz Semple, Charles Richman, Shing-Fu Hsueh, Louise Wilson, Ed McKenna. Nays: (0). Abstains: (0).

State Plan Status Report

Secretary Rendeiro provided an update on the State Plan. She explained that she had met with Dr. Burchell in accordance with the discussions held at the November 24, 2009 SPC meeting. At the meeting they expressed the urgency around getting the deliverables that Dr. Burchell had committed to give the Commission. She noted that according to the resolution the Commission was requesting deliverables on December 11 and Dr. Burchell had tried to request a different date of December 18, 2009. Commissioner Lang, who attended the meeting, was very strong in relaying that the date request was not acceptable. The projections, the Infrastructure Needs Assessment and Impact Assessment were delivered at 11:59pm with typos. Secretary Rendeiro noted that she did give Dr. Burchell a deliverable date of 15th so she should could come to the meeting today and say she does have a final document. She explained that the document has been sent to the SPC and there was still some last minute editing to be done on the text itself and it would be up on the website as soon as those edits were complete.

Next, she explained that a PDC meeting could be held as soon as it could be noticed if that was what the Commission desired and asked to open it up for discussion.

Chair McKenna indicated that he thought the Commission should move on it as quickly as possible; he felt the Commission was now in a position where it can move forward with a PDC meeting the first week of January. There was a brief discussion on when the PDC could possibly meet. Secretary Rendeiro also noted would be meeting on Friday with a member of the Governor-elects transition team for Authorities. She expressed that the question in front of the Commission would be does the Commission want her to ask the transition team if the Commission should defer until the new administration has a chance to review it or wait and see what happens at the Friday meeting.

Commissioner Albert questioned logistically, forgetting about the transition committee for a moment, what were the requirements and what is the desire of the Commission in terms of public hearings and procedurally—how can the Commission adopt the Plan.

Secretary Rendeiro explained that as the rules are written the PDC has to vote to send the documents to the SPC which include the INA, IA, the text of the draft Plan and the SAD to the SPC. There has to be a 14 day gap between that time period and the documents have to be published to allow for public review. Once the SPC acts, public hearings can be scheduled, and there must be a least 30-days between when the SPC acts and when the first public hearing is held. Six public hearings are required with two north, two central, two south. Once the hearings are completed the Commission has between 45 days and 60 days to make any changes as a result of the public hearings and to adopt the Plan. She noted that the public hearings are held by the entire Commission, but not a quorum. There was a discussion on any restrictions such as having a hearing every week. Secretary Rendeiro noted that there was no legal restriction but it will be a work load issue for staff with respect to documenting the information received at the hearings. There was discussion on having two meetings a week.

There was a brief discussion on holding a January SPC meeting to adopt the draft Plan and the issue of the meeting currently having been scheduled for the day after the inauguration, leaving the Commission without a quorum, as the new Governor would have to appoint four cabinet members and two executive branch members to the Commission.

Commissioner Barnes suggested that the transition team be asked would it be fair to hold a earlier meeting in January for the sole purpose of adopting and releasing the draft Plan. This led to a discussion on having a meeting of the PDC between Christmas and New Years.

Commissioner Richman noted that in reading Dr. Burchell's work he could not find how he did the forecast and questioned how the Commission would be using his work. He explained that in the first round of the State Plan, Dr. Burchell's work was used solely to look at the difference between the Plan and Trend. The Commission did not use it and did not validate it as any forecast for population, housing or job creation numbers. In the second round, it get referenced in the document and the forecast gains some level of credibility, although it is not clear that the Commission ever adopted it as a forecast. If we are going to propose to use as an official forecast then there needs to be some lengthy time to vet the document and the methodology.

Secretary Rendeiro noted that Dr. Burchell has indicated that within 60-90 days he would be supplying the models used, which would give the specifics on what numbers were used in the assumptions and how that played out.

There was a lengthy discussion among the Commissioner members with respect to the using Dr. Burchell's document within the Plan and calling it the Commission's forecast. Chair McKenna indicated that as long as there was a consensus with Commission members that it will not be incorporated within the Plan as a an absolute forecast for what we see for the future, but recognize for what it is only, he felt the Commission could move forward.

Commissioner Eskilson expressed his concern that if the Commission is just utilizing the information as interesting analysis were they not leaving themselves and the next administration with the same dilemma of all the sensitive numbers and who has it right and what methodologies did they use, how do you get to a common platform and should they really be the state planning numbers, he was also concerned about the delay in time. He noted that he did agree that if the document was to be used as the official state set of numbers there needs to be a rather lengthy vetting process to allow the public and professionals to drill in and make sure that the numbers are creditable.

Commission Albert noted that he had different perspective and that he understands that the Plan stands on own and Dr. Burchell's work was a requirement in the legislation to evaluate and inform others of the impact of the Plan, but not a process where the assessment gets folded into the Plan to correct or modify the Plan. He thought that at the public hearings or before that comments could be made and the methodology discussed as well. He didn't see any problem with moving ahead with the Plan.

Commissioner Semple questioned what the legal ramification were on the State Planning Commission adopting the Impact Assessment as part of the State Plan, how much of it can we change or could change through the public hearing process, if significant input is heard on the document.

Secretary Rendeiro noted that her understanding of the statute says the Impact Assessment is not part of the State Plan, it is an independent analysis of the Plan. It is within their authority to make changes the draft Plan as a result of the documents as well as the public hearings before the final Plan is adopted. There would be an opportunity before the final is complete to make changes as a result of both the INA, IA and public hearings. They are separate documents from the Plan, they just need to be presented to the public with the Plan.

Commissioner Semple questioned if the State Planning Commission adopts this, does it provide a legal standing that we may or may not want it to have unless there has been significant verification. Secretary stressed that the SPC does not adopt, accept or take any action related to Dr. Burchell's documents.

Commissioner Wilson commented that she feels there is a process issue, time issuing and a perception issue. She noted that she wants to understand the methodology because she believes notwithstanding that we don't take formal action on the documents, this will get a lot of attention and as a Commission they need to be able to at least understand how the numbers were arrived at. She expressed that she was torn as to what was the right thing to do at this point, she is not completely comfortable with forging ahead and her expectation would be that the incoming administration would say "hang on" and if that is the case or even if it is not, she agrees that it is important to understand the methodology.

Chair McKenna noted that they didn't necessarily have to have the models, but it would be beneficial to have Dr. Burchell come to the PDC meeting and explain how the numbers were achieved and to also invite him to the January meeting as well.

Commissioner Chen commented that after hearing the logistics, his sense would be as a precautionary measure perhaps give the notice requirements such that if the Commission wanted to do the PDC on the December 28 and a full SPC meeting before the inauguration. Maybe circumstance will warrant putting it off. He also noted that unfortunately the appointments process for every administration is very slow, so the likelihood is that if the Commission doesn't take action before the 19th it will be months before it can act. In addition it would only be adopting a draft that triggers the ability of public hearings. There has been significant delay already and the Commission should at least preserve the opportunity to move the process along and of course the incoming administration will have the full ability before final adoption to weigh in.

Chair McKenna questioned if there was the ability to give adequate notice to have both the PDC and SPC meeting prior to January 19, 2010. Secretary Rendeiro responded yes, if the meeting is to be December 28 it must be noticed by Friday, and then the full Commission could meet on January 13, 2010.

Chair McKenna asked for the Commission's thought on moving the process forward. Commissioner Barnes agreed with Commissioner Chen and the process should move forward. Commissioner Eskilson agreed that the process needed to move forward, but the IA would not be considered as any official state projection and that it was not being used to modify the Plan. Secretary Rendeiro noted that Dr. Burchell would be invited to both the PDC meeting and the full SPC meeting on January 13, 2010. She also requested that if any of the members had specific questions to please send them to her in advance.

Commissioner Barnes offered to withdraw DOT's presentation from the January meeting. Secretary Rendeiro concurred and advised that the presentation could be done at the February meeting.

Commissioner Wilson raised an issue relative to the report, first she reiterated that she is a member of the Executive Board of the League of Municipalities, she noted that the League has a standing request under the Open Public Records Act for this report, if the Commission were to vote on the question of whether to make the document public, she would not vote. Her

assumption has been that this document is a public document; it is a report delivered to us and unfortunately doesn't have information about methodology, which she feels is important, she believes the report is a public document and should be conveyed to those who have asked for it as such. She would ask the Commission to take the issue under consideration and would recues herself from that discussion.

Commissioner Albert commented that the "draft-not for distribution language had been removed from the report.

Commissioner Chen commented that whether or not it is now subject to OPRA is not an issue the Commission votes on. It is no longer a draft and deliberative or consultative and that if an OPRA request was submitted now it would have to be determined by the Commission's legal advisers. That being said Commissioner Chen noted, that if Commission action were needed he is all for transparency, especially with the incorrect appearance that has been given that the Commission had been sitting documents. If there were any Commission action needed he would be in favor of disclosure.

Chair McKenna questioned if there was any reason why it should not be available on the OSG website. Secretary Rendeiro concurred that it could be put on the website.

Commissioner Albert noted that as a professional courtesy Dr. Burchell should be notified before it was placed on the website. All Commissioners were in favor of placing the final documents on the website.

CHAIR'S COMMENTS

Chair McKenna reported that there was a letter to the Governor-elect from the County Planners Association dated December 4, 2009 which was in support of the Commission as well as the Office of Smart Growth. He further noted, that one of the points that is made in the letter and read as follows: "we respectfully call upon you and your staff to restore the State Planning Commission and Office of Smart Growth to the lead positions they are mandated to occupy, to provide them with the necessary resources to do the job required by statute and move the Office of Smart Growth from its inherently conflicted location in the DCA and give it equal status with the agencies with which it is required work." He questioned that as a Commission should this issue be discussed any further at his point, provide an acknowledgment to their letter or take a position as far as the new administration is concerned. There was a lengthy discussion on this issue and perhaps adopting a resolution in support of the suggestion of the CPA. The final outcome that was suggested was that the public members craft a letter supporting the CPA suggestion.

COMMITTEE REPORTS

There were no committee reports.

COMMISSIONER'S REPORTS

There were no commissioner reports.

PUBLIC COMMENT

Helen Henrich of the New Jersey Farm Bureau questioned that with the meeting dates that have been set up, would it be possible for the public to know when Dr. Burchell reports and the draft State Plan, were posted so they can do their homework as well for the meetings. Ms. Heinrich raised a caution about a bill to expand the potential of more receiving areas, with the intent to try and help the landowners in the Highlands where there are no receiving areas identified so far, the idea would be to look statewide for some place to get density and compensate the people in the Highlands. As a planner, she understands the history of TDR being more successful in urban areas using the sending area for other purposes than open space or farmland, but she feels that the rural/farm communities look at the urban areas as their only hope, so if the urban areas are now going to use it for other things, then where are the receiving areas and where is the growth and density of the growth we need going to happen. She asked that the Commission keep that in mind.

Commissioner Eskilson noted that the Highlands opt-in deadline has come and gone and that in Sussex County there was only one community that opted their planning area in and it leaves the question still open what are we going to do, the Commission still has jurisdiction in the planning area, that has never been resolved or how the Highlands Plans will be dealt with, are we going to endorse it, what it means vis a vie the planning area. He thinks this issue needs to be bumped up for 2010. Secretary Rendeiro noted that the office has started to have staff to staff discussions and that it would be moved up.

With no further comments from the Commission or the public, Chair McKenna asked for a motion to adjourn. The motion was made by Commissioner Chen and seconded by Commissioner Wilson. All were in favor. The meeting was adjourned at approximately 10:50 a.m.

Respectfully submitted,

Donna Rendeiro
Secretary, State Planning Commission

Dated: December 22, 2009