

NEW JERSEY BROWNFIELD REDEVELOPMENT TASK FORCE

**POLICY & LEGISLATIVE COMMITTEE**

MINUTES OF MEETING HELD TUESDAY, MAY 23, 2006  
10:00 P.M. – 12:00 P.M.

DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
TRENTON, NEW JERSEY  
OFFICE OF SMART GROWTH LIBRARY - 7TH FLOOR

**Committee Members Present—**

Leah Healey - Public Member – Committee Chair

Frances E. Hoffman – Office of Smart Growth, NJ Department of Community Affairs

Steven Kehayes – Site Remediation/Waste Management, NJ Department of Environmental Protection

James D. Simmons – NJ Commerce, Economic Growth and Tourism

Erin Simone – NJ Department of Agriculture

Rose Smith – NJ Economic Development Authority (teleconference)

Dennis Toff, Public Member – Task Force Chairperson

Cynthia Weiser – Recording Secretary, Office of Smart Growth, NJ Department of Community Affairs

**Committee Members Not Present—**

Sally Dudley, Public Member – Environmental

William Mullen – Public Member – Labor and Trade

**Other Attendees—**

Robert Hoch – NJ Department of Environmental Protection

Megan Lang – Highlands Council

Alan Miller – Office of Smart Growth, NJ Department of Community Affairs

Dan Reynolds – Council to the Task Force

**CALL TO ORDER & WELCOME—**

The Chair welcomed the Committee and called the meeting to order at 10:04 a.m.

**I. PUBLIC COMMENTS—None.**

**II. PRESENTATION: Robert Hoch, Bureau of Operation Maintenance and Monitoring, NJDEP—**

Mr. Hoch gave a presentation on “Institutional Controls for Soil and Ground Water.” His slide presentation addressed the Declaration of Environmental Restrictions (DERs) and various aspects of the Deed Notice Inspection Program. It also explained multiple types of standards, exceptions areas, controls, approvals, and certifications utilized by the Bureau. Mr. Hoch distributed copies of his presentation to the Committee members.

**III. ROLL CALL—**

Roll was called by Cynthia Weiser and a quorum was present.

**IV. COMMITTEE BUSINESS—**

- o Eminent Domain Legislation

The chair reported on the Assembly Committee Hearings on eminent domain and the municipal development law. It is likely that use of the eminent domain will not be prohibited outright in the new legislation, but the process and the criteria for declaring an area for redevelopment will be addressed, with some limitations on the use of eminent domain. The Assembly hopes to have a combined bill to vote on in June.

o Public Notice Legislation

Bills A1893 and A1894 address public notice issues regarding alerting municipalities and adjacent property owners of spills and remedial workplans and actions on contaminated sites. They are being held in the Assembly Committee pending redaction. Discussion ensued in which the following points or questions were raised:

- *How much contaminated information is shared with the community?*
- *How does the community learn about contamination?*
- *What information does the community need to know?*

It was agreed that most communities are unaware of contamination until a problem develops, and that information about contamination and related proposed actions should be made available to the community through the municipality.

o Monitoring of Environmental Engineering and Institutional Controls

The Committee concurred that communication about contamination issues between municipalities and planning boards appears to be less than desirable. Questions arose: 1) Are new owners and sellers notified of restrictions and controls regarding environmental concerns? 2) Do developers advise sellers about these issues? 3) What is the role of municipal bodies in monitoring and awareness?

Critical points are:

- when land use changes from commercial to residential,
- the extent of notice during the real estate transaction process (Although critical information on contamination does appear in a title, and the information is received by local health officials, it is generally left to the attorneys to divulge the information to the buyer.)

It was the consensus of the Committee that the municipal planning boards were a key link, and that environmental issues might be added to the project check lists that are used in evaluating proposed development. Training modules on this issue for planning officials were suggested as well. It was suggested that the Task Force might devise a 'packet' of information, including training information to be made available to planning boards and the real estate and non-profit community development organizations.

It was noted that simple solutions requiring minimal effort should be the sought.

As follow-up, (1) a meeting should be scheduled with Robert Hoch to discuss the matter further. (2) The land use section of the Bar should be contacted and (3) the Task Force should review check lists used by planning boards. DEP will share their current 'check list' with the Task Force, and Mr. Miller will also submit the check list from the planning board on which he is commissioner.

## V. COMMITTEE MEMBERS COMMENTS—

- **Deed Notices:** The Deed Notice is not working well in the smaller transactions. It is important to get the information to the town, setting correct condo standards, filings, etc.
- **ACO/MOA:** The report on Department of Environmental Protection policy regarding the use of oversight documents Administrative Consent Order (ACO) / Memorandum of Agreement (MOA) has been in the works for almost two years. A report will be presented to the Task Force at their June 22 meeting.

- **HDSRF Changes and Clarification of Terms:** The Task Force has requested meetings with DEP, EDA, and Commerce to discuss remaining issues with the HDSRF program, both in the application process and clarification of different aspects introduced under the new amendment.
- **Landfill Reuse:** A question arose regarding what steps must be taken when a landfill is properly closed for a number of years and there is new interest in redeveloping the site. There was a perception from a developer that redevelopment of properly closed landfills was being discouraged or prohibited by DEP. In order for a purchaser to obtain the protection of a No Further Action (NFA) letter, must they do more than address the landfill disruption/proper investigation/clean-up issues? The response was that the party needs to go through DEP Department of Oversight on Remediation in order to get the NFA. There is no prohibition regarding redevelopment of property closed landfills.
- **Eminent Domain:** The Committee decided that action on A1893 and A1894 need not be taken immediately, but the bills should be followed for possible future recommendations from the Task Force.
- **Tracking/Evaluation of Programs:** Following a discussion of the importance of evaluating the programs associated with brownfields throughout State government, there was agreement that the Task Force was the appropriate group to whom to report program results. In many instances, there is no follow-up on entities receiving funds under the State program. The Task Force can provide clear input to the new administration and the Legislature as to how brownfields programs are functioning.

It was further agreed that a more well-defined way for the Task Force to communicate with the Legislature and the Governor, as charged by State Statute, was identified.

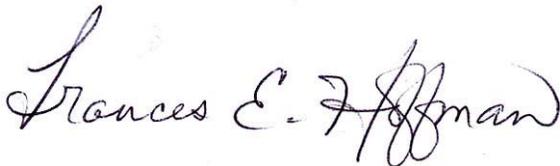
#### VI. APPROVAL OF MINUTES—

Minutes of the October 4, 2005, November 29, 2006, and January 24, 2006, meetings were voted on and passed. The minutes of the March 28, 2006 meeting will be tabled until the next Policy and Legislative meeting on July 23.

#### VII. ADJOURNMENT—

Meeting was adjourned at 12:20 p.m.

Respectfully submitted,



Frances E. Hoffman  
Secretary, New Jersey Brownfields Redevelopment Task Force



Cynthia Weiser  
Recording Secretary  
07/20/06

**ACTION ITEMS:**

Institutional and Engineering Controls

- 1) A meeting should be scheduled with Robert Hoch to discuss the matter further.
- 2) The land use section of the Bar should be contacted and (3) the Task Force should review check lists used by planning boards. DEP will share their current 'check list' with the Task Force, and
- 3) Mr. Miller will also submit the check list from the planning board on which he is commissioner.

Administrative Consent Order/Memorandum of Agreement:

Determination of use of oversight documents: DEP to present a report to the Task Force at their June 22 meeting.

HDSRF Program:

Task Force has requested meetings with DEP, EDA, and Commerce to discuss remaining issues with the HDSRF program, with regard to program function and clarification of items in new amendments.

Eminent Domain legislation:

Action on A1893 and A1894 need not be taken immediately, but the bills should be followed for possible future recommendations from the Task Force.

Evaluation of programs/tracking of projects:

Evaluation of use of the state's programs should be initiated by the Task Force with a report prepared for distribution.

Process for forwarding recommendations:

A more well-defined way for the Task Force to communicate with the Legislature and the Governor, as charged by State Statute, needs to be identified.