

NEW JERSEY BROWNFIELD REDEVELOPMENT TASK FORCE

POLICY & LEGISLATIVE COMMITTEE

MINUTES OF MEETING HELD TUESDAY, JULY 26, 2005

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
Colleen Kokas –NJ Department of Environmental Protection
Erin Simone – NJ Department of Agriculture
Rose Smith – NJ Economic Development Authority

Committee Members Not Present—

Sally Dudley, Public Member – Environmental
Richard Gimello – NJ Department of Transportation
William Mullen – Public Member – Labor and Trade
Dennis Toft, Public Member – Task Force Chairperson

Other Attendees—

Dan Reynolds – Counsel for the Task force
James Simmons – NJ Department of Commerce, Economic Growth and Tourism Commission
Cynthia Weiser, Office of Smart Growth, NJ Department of Community Affairs
Marcus Colicelli – Intern, Pat Gillespie, Office of the Governor
Joe Constance – NJ Department of Commerce, Economic Growth and Tourism Commission
Sarah Lavine, Intern DCA, OSG
Kamal Saleh – Union County Dept of Economic Development

I. CALL TO ORDER & WELCOME—

Leah Healey, Chairperson of the Policy and Legislative Committee of the NJ Brownfields Redevelopment Task Force, welcomed the Committee and called the meeting to order at 10:08 a.m.

II. ROLL CALL—Cynthia Weiser, Brownfield Program Assistant, called roll. A quorum was present.

III. APPROVAL OF MINUTES—Ms Healey moved to accept the unofficial minutes of the May 31, 2005 meeting; Ms Smith seconded. Five in favor; none abstentions.

IV. COMMITTEE BUSINESS—

Ms Healey stated that she and Ms Hoffman made a list of items of Committee business that need to move forward.

• UEZ incentives for Brownfields

Ms Healey referred to a report given by Mr. Simmons mentioning that clarification of when certain incentives from the UEZ program should be used in combination with the Brownfields Remediation Reimbursement Program, and depending on the maturity of the project. Applicants would need to be informed.

The Committee felt that the appropriate parties need to be informed if these issues arise. There was discussion about furthering incentive programs in those urban enterprise zones from 75% to

90%-100%. New businesses or businesses that broaden or expand will help generate additional taxes.

A suggestion was made that there might be a need for a focus group to brainstorm the possibilities for additional incentives. Ms Hoffman said that it is a concept that affects the UEZ, and the Portfields areas primarily, but other areas are impacted as well. Some communities are interested in having an industrial base. Therefore, the Task Force might want to include the Port Authority and the Meadowlands, and in addition, groups like NAIOP, others representing an industrial port and individual developers.

Two related efforts in this area of concern were mentioned. EDA has entered into a contract with Commerce, with monies coming from the Port Authorities—a \$2 million advertising and marketing campaign to promote awareness of the sites available for development. This is part of a three-year project, and that 17 sites have been identified so far. Additionally, Commerce has received \$4 million from the Port Authority to undertake a business attraction and retention campaign to attract businesses to New Jersey, particularly the port area.

It was reported that an important component of such an effort could be establishing a full brownfields inventory on these areas clean-up issues. A very small grant was given by DOT to NJIT to plug in the additional data for the port areas, but that will not cover the full scope of need. Such an effort could be establishing a comprehensive brownfields inventory on these areas. The Task Force might explore with Commerce and the Port Authority, the possibility of subcontracting a portion of the large grant spent for input into Site Mart database. Currently, we do not have a good listing of what properties are available. With enough funds, the inventory can be obtained quickly. The database could be a significant asset for promoting redevelopment in Port areas.

It was suggested that a joint DCA/Commerce forum be organized that would: 1) provide existing information, e.g., the Site Mart, the BRIT, C-MAP and incentive programs, and 2) obtain feedback from our client base, e.g., “What can the State do to help You?” and other information to help shape policy to help the development effort. A white paper can then follow.

There is a strong market for residential use in the state, and because New Jersey allows residences to be built on any property, as long as adequate protective measures are in place. Incentives for housing as well as for industrial use are not as powerful as these. Ms Healey asked what this Committee could do to advance incentives for industrial use to help municipalities balance their land use. To that end, the answer may be to get some ideas from a smaller group of people with a lot of knowledge, and from there open it to a large meeting or event. Meaningful feedback will come from the development community in a confidential surrounding.

There was a question as to whether we have enough incentives, or if they are just not disseminated well enough or are not in an accessible form. Should we be investigating how to increase incentives for certain sectors. The Task Force needs to know what taxes are generated on a federal level, state level, or local level that would provide incentives, for example, for industrial redevelopment. It was suggested that interns could work on such a project.

It was stated that, in many instances, timing was the most important issue and more critical than publication incentives. While the state reimbursement program is generous—up to 75%—the money is not reimbursed quickly enough. The turnaround between the NFA (No Further Action) approval and review in the DEP, where the list of costs must be approved and Treasury’s check writing can take years. The wait time from the request by the developer and the cutting of the check is literally three to five years.

Commerce has executed 69 agreements, with over \$305 million in reimbursement committed, from which approximately \$8 million has been paid out. The average agreement is about \$3 million to \$4 million dollars. The program may not be well suited from a timing perspective for the smaller developer.

There appears to be a strong market for brownfields and other redevelopment projects, but concern was raised regarding the plight of a number of smaller businesses needing 10,000 sq.ft., with a 20-ft ceiling, and that are being forced to move, with few places to go. Some figures on this sized business sector would be helpful in order to understand their needs, respond to their circumstances, and educate legislators so that the small businesses and manufacturers are not forced to emigrate to another state. It is difficult to predict how the market will turn, so it might be difficult to create small pockets of incentives specifically for small business. Certain criteria could be created, using Pennsylvania's, the Keystone Empowerment Zone, as a model.

The Task Force must determine what is available for a Portfield use, and decide if there is anything we can add. The Task Force could contact Treasury to determine every possible state incentive. It may be worthwhile if the Committee could look at the bridge loan and find dollars that could be used as a tax incentive. For example, a \$750,000 loan for a period of three years, with an interest rate of three percent is too small. EDA might look toward expanding the program significantly if the money is available, e.g. \$5 million for nine years would likely be more useful to the developer to acquire, clean up, and sell the property. Counties might also provide an opportunity for incentives because their perspective is broader. Senate Bill 277 will also open up the Hazardous Discharge Site Remediation Fund for the first time to counties and developers. However, it was noted that there are many people wanting to take advantage of the program but do not have the patience for it because of the hold-up in DEP review of applications for the Hazardous Discharge Site Remediation Fund program.

Other issues such as air quality, non-attainment areas, should be raised in the discussion. Developers of the newer, state-of-the-art buildings claim that the new designs reduce rather than add contaminants to the air.

It was suggested that representatives from Treasury, who administers the brownfields tax incentives, be invited to the next Policy & Legislative meeting to provide information on the kind of taxes that apply to port use.

Expansion of Task Force Membership

The Committee discussed the need to make a recommendation to the Task Force on this issue. The additional representatives previously suggested were the Department of Labor and the Treasury. Both have requested to be members of the Task Force. In addition, the Highland Council has recently shown interest in Task Force membership.

The Committee was advised that the new Labor Commissioner promotes interagency collaboration, and representatives from the Department of Labor have been attending BRIT meetings. The department is promoting work force development and, in conjunction with and support of, brownfields redevelopment. Labor Department is also a good source of data.

Further discussion about Task Force members highlighted the following suggestions:

- Potential new members submit a letter stating their agency's interest/contribution as a member of the Task Force.
- Create associate membership positions on the Task Force Committees to provide feedback and make contributions, working toward a time when they might aspire to full membership with voting privileges.
- The balance should be more private sector than agency members. Stakeholder categories might include technology, health, insurance, real estate, state chamber organizations, municipalities, etc.
- Add to the bylaws language that would indicate our relationships with the Highlands and Meadowlands.
- The Committee felt that it hasn't heard adequately from the development community to determine what they need.
- A general feeling was expressed that Treasury be an additional state agency, and real estate and county-municipal representatives be added from the private sector.

Because the full Task Force meeting may not be the best a place to discuss the issue in detail, a

more generic discussion can be held possibly by teleconference, and to determine whether to add members or create an associate member position, or to gather more information before making a decision.

- Assemble a majority of the decision makers—heads of agencies—so that we can advise them what we are trying to accomplish and to ascertain whether or not new members should be voting or non-voting members.
- Draft Report to Governor
This is a continuing work in progress, but it makes more sense now to wait to present it to the next elected governor.
- ACO/MOA issue for brownfield redevelopment
There is an issue concerning oversight documents, which has come to a head in Sayerville, where the former property owner and the developer are both requesting that DEP review their oversight document, as opposed to the other party's oversight document. It impacts brownfields redevelopment in that the municipality's brownfield redeveloper designee is not able to get their documents reviewed because theirs is not the 'first in' oversight document. From DEP's perspective, they do not want to be receiving different oversight documents for the same site. The developer does not want to begin the condemnation process until their oversight document is reviewed and approved, because of their significant financial risk. If this is not resolved, it may literally shut down all of Perth Amboy's projects, because developers feel their document will not be reviewed.

Initial interagency discussions were already in progress regarding ACOs and MOAs at the request of the Task Force and BRIT. Questions arose if an intermediary document or an MOA could be better used in such situations rather than an ACO. Although a decision may have already been made on the Sayerville case, a teleconference will be held to discuss this more fully.

- Highlands Rules impact on BF/Waiver Process
The Task Force Chair gave the Policy & Legislative Committee the task of looking at the impact on brownfields of the Highlands Rule. The Highlands Council is forming a brownfields technical advisory committee. Temporary rules are in place now for a year. Prior to the formal issuing of proposed rules, several state agencies had time to comment, and the DCA did have some concerns about the brownfields sections. DCA and the Highlands Council concurred on the issues. Copies of the comments were circulated among the Committee. The topic will be postponed to the next Committee agenda.
- Innocent Purchaser Confirmation
There is a lingering question: Is there going to be a way to confirm innocent purchaser status while waiting for Department of Environmental Protection to start a No Further Action letter? The Committee tabled the topic and would request a report from Department of Environmental Protection on how they propose to handle the issue. This has been a concern of the Task Force for some time.

It was noted that the development community was interested in obtaining that innocent purchaser comfort for the NFA, and the Committee was reminded that even with the NRD legislation, there still may be a lingering need for legal comfort to go forward with a transaction. Establishing innocence was a fairly time-consuming and expensive process. The legislation, without the additional 'comfort,' complicates the process.

The Committee Chair will forward this concern to Mr. Toft and Ms Laurenti of the Task Force for further comment to help determine if banks are still seeking additional confirmation of innocence along these lines.

- HDSRF Processing Issue
Although not yet signed, S277 presents an opportunity to determine where we are and where we are going in order to implement the Hazardous Discharge Site Remediation Fund program as

efficiently as possible. Without proper flow in the program, many other brownfields incentive programs will be negatively impacted.

Since the inception of the program, only one bridge loan was closed.

The Task Force will consider requesting a report on the status of the processing, backlogs, etc. of the program by DEP and EDA.

A meeting was held two weeks ago to address the functioning of the Hazardous Discharge Site Remediation Fund application review process by DEP. Joe Seebode, Frank Pinto and Colleen Kokas from DEP, Maureen Hassett, Rose Smith and Margie Piliere from EDA, and Ms Hoffman from DCA attended. There is a significant backup again in the HDSRF and the underground storage tank (UST) programs. Several tentative solution tasks were outlined: 1) Establishing a group of designated consultants who would automatically be approved from the technical standpoint, i.e., rather than going through the process of reviewing the credentials of "X" company each time an application from that firm is received, information about the technical qualifications would preclude rechecking of the document, thereby freeing up significant staff time; 2) Developing a list of different scopes of work and ranges of acceptable costs for environmental assessment on properties. These categories and ranges of costs would be developed in consultation with developers, consultants and others. DEP proposed convening a meeting, as they did with the underground storage program, of consultants, and municipal officials as well, to determine categories; and 3) An additional suggestion was to move staff from one category in DEP over to the HDSRF program to help process applications more rapidly.

The Committee suggested that it initially ask George Kelley of the Task Force for his recommendations.

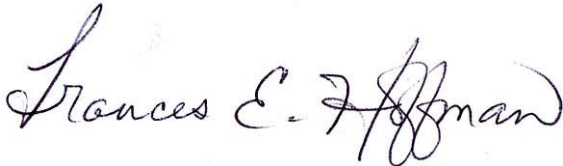
It was announced that DEP is conducting one of a series of three real estate training courses for the Site Remediation Program, and expose case managers to various facets of the redevelopment process.

V. COMMITTEE MEMBERS COMMENTS—None

VI. PUBLIC COMMENTS—None

VII. ADJOURNMENT—The meeting was adjourned at 12:25 p.m.

Respectfully submitted,



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