

**New Jersey State Planning Commission
Minutes of the Meeting Held February 19, 2003
Department of Community Affairs
State House Annex
125 West State Street
Committee Room 4
Trenton, New Jersey**

CALL TO ORDER

The 168th meeting of the New Jersey State Planning Commission was called to order by Timothy J. Touhey, Chair at 9:40 a.m. on February 19, 2003.

OPEN PUBLIC MEETINGS ACT

Daniel 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

Michele Byers, Executive Director, New Jersey Conservation Foundation
Dan Ryan, Designee for Commissioner Bradley Campbell, Department of Environmental Protection
Bradley Campbell, Commissioner, Department of Environmental Protection
John Eskilson, Public Member
David Fisher, Public Member (arrived after roll call)
Jim Lewis, Designee for Commissioner John F. Lettiere, Jr., Department of Transportation
Monique Purcell, Designee for Secretary Charles Kuperus, Department of Agriculture
Marilyn Lennon, Public Member
Susan Bass Levin, Commissioner, Department of Community Affairs (stayed for presentation)
Marge DellaVecchia, Designee for Commissioner Susan Bass Levin, Department of Community Affairs
Daniel Levine, Designee for Treasurer John McCormac, Department of Treasury (arrived after roll call)
Edward McKenna, Jr., Mayor, Red Bank Borough
Donna Pearson, Freeholder, Cumberland County (arrived after roll call)
George Pruitt, Public Member
Peter Lazaropolous, Public Member
Lauren Moore, Representative for Secretary William Watley, Commerce and Economic Growth Commission
Timothy J. Touhey, Chairman and Public Member

Not Present

Martin Bierbaum, Governor's Office
Gary Papparozi, Mayor, Lodi Borough

PLEDGE OF ALLEGIANCE

Chairman Touhey asked everyone to stand for the Pledge of Allegiance.

CHAIRMAN'S COMMENTS, Timothy J. Touhey

Chairman Touhey mentioned that he would like to give brief comments, and then move to Commissioner Susan Bass Levin for comments and on to Commissioner Campbell for his presentation. He opened wishing everyone a "Happy New Year" and commented that despite the rumors, the State Planning Commission didn't shut down and is still going strong. He said that for the last thirty days, Commissioner Levin and Commissioner Campbell and himself have been discussing the issue of the Big Map and the State Plan Map and the process as it relates to where the Department of Environmental Protection is moving and the role of the Commission. Chairman Touhey noted that he thinks he has made it clear to Commissioner Campbell that it is really the role of the Commission to review all of DEP's data information. Further, Commissioner Campbell will go over how DEP compiled all of its information. The Commission will look at this information and make a determination both from a policy perspective and data perspective of how the DEP map will roll it into the State Plan map, which is the only map, particularly by law. Lastly, Chairman Touhey noted that he appreciates the efforts and time Commissioner Campbell has spent sitting with him over the last thirty days.

COMMISSIONER SUSAN BASS LEVIN COMMENTS, Commissioner of Department of Community Affairs

Commissioner Susan Bass Levin thanked the new and old members of the State Planning Commission for their participation. She acknowledged that many have already spent countless hours volunteering their time and she wanted to express the thanks of Governor McGreevey to everyone. We look forward to continuing to work together to ensure our state has a plan that works for all of New Jersey; for rural centers, for urban New Jersey, for suburban communities young and old. She thinks the effort from the Commission and members of the planning community to date, really sets groundwork to move forward. She mentioned that they all have heard Governor McGreevey speak of his desire to combat sprawl as one of the most important issues facing everyone. That everyone spends too much time sitting in traffic and everyone pays the cost of unplanned growth and she thinks that all of us understand that with sound planning, based on a number of factors, results can be achieved for our communities. Also, they have been working very closely as members of the cabinet and that includes Secretary Kuperus, Secretary of Agriculture, John Lettiere, Commissioner of Transportation, Bradley Campbell, Commissioner of Department of Environmental Protection and many of the other cabinet agencies to develop the Governor's initiative so that communities all across New Jersey are better able to plan for the future. The State Plan Map has been the subject of extensive discussions and meetings, which are a good thing, and it is understood the need to build on that. The goal is to make this map an even more useful tool for municipalities and counties as they plan for the future and are looking at the Big Map as an additional tool. The statute is very clear that the State Plan Map is the map that they are to be guided by, but she is especially appreciative of Commissioner Campbell's and DEP's roll in working to take DEP regulations, make them more understandable, make the outcomes more predictable, and to tie them in to a very real and practical way to the State Plan Map. She noted that the process is still being worked through. Certainly the

cross-acceptance process has worked well and it will be built upon as things move forward. The one thing that the Big Map has done is make people advocates for the State Plan Map, people who for years have said it is not a good idea, and now they think it's the greatest idea, so you take what you can get. She said that she and Commissioner Campbell understand that the map is a concept plan, that it's a work-in-progress. They have been meeting with groups all across the state and will continue those meetings. Their goal is the same as everyone in the room, which is to make sure they employ sound planning techniques as they look toward the next 20 years in New Jersey, that they are able to learn from the mistakes of the past and build a better New Jersey.

SMART GROWTH REGULATORY INITIATIVES PRESENTATION

Commissioner Bradley Campbell, Department of Environmental Protection, began his map presentation by thanking the members of the Commission, particularly Chairman Touhey, who has been helpful to DEP as they begin a process of trying to implement Governor McGreevey's vision for smart growth and to essentially retool the regulatory approach plus a range of programs, to align DEP's work with good planning, with the missions and objectives of other departments and with the work of the State Planning Commission. He mentioned that they approach this work with a few fundamental critiques of DEP's historical practice, in terms of how they came to develop the map and the mapping approach. They are trying to change the way DEP currently operates, the status quo. One central element of that status quo is that DEP's entire regulatory structure is largely indifferent to good planning. It's largely indifferent to the work that the State Planning Commission has done in developing the State Plan and State Plan Map. DEP's regulatory approaches tend to be very much one size fits all. They take developers through the same regulatory process, regardless of whether they're planning a project in a place that's appropriate under the principles of the State Plan and that State Plan Map. The same process if they're developing in a place that's inappropriate from a sound planning or development perspective. That, in a sense, is a central dysfunction of the current system and one that they need to change if they are going to both reinforce the work of the State Planning Commission and do a better job at DEP in protecting the environment. The DEP's job in meeting its statutory mandates such as protecting clean air, protecting clean water and conserving open space, will be a great deal harder or easier, depending on whether or not the principles of the State Plan are followed and the State Plan Map is sound. Regrettably, based on the data they have, nearly forty percent of the development currently taking place is taking place in areas that are inappropriate under the State Plan and State Plan Map and that pattern is, in a sense, being reinforced by these historical problems with the DEP regulatory approach. Concomitant with that, DEP, as an institution, has been remiss in making sure that it's data, what it knows about environmental features, what it knows about where endangered species are threatened, what it knows about the demands of water quality protection, have been remised as a department to incorporate it in a prompt and effective way into the State Planning Commission's work on it's map. The approach the department is taking is largely to address that series of defects in trying to make the work of the department consist with and complimentary to the work of the State Planning Commission. That has to be done in the legislative framework and under which they operate in terms of protecting clean air, protecting species, protecting the lands and so forth. The department began to look at how it would change the regulatory approach rather than have a one-size fit all approach. How do they create an easier regulatory and approval path and faster decisions in areas that are appropriate from an environmental and planning perspective. In addition, on the other side of the ledger, reserve the tougher standards and closer scrutiny for those areas where they know a greater resource value is at stake or where they think development may be inappropriate from an environmental or planning perspective. The department began to try and its use our geographic information systems, to map out what they know about the environment, about where threatened endangered species are, about where wetlands are and where there is already impervious surface; and to try to map those out comprehensively to move towards a more coherent, rational process, tailored to what they actually know about the environment. They did this in what has become a well known, and perhaps notorious, form of a green light, yellow

light, red light map in terms of where do they think they should be giving more of a green light to development, more of a red light, recognizing that municipalities, builders, developers and planners, are currently in a green light, yellow light, red light system now. The only difference is, they don't know where the green, yellow, red lights are and they don't know until the very end of the planning development process. DEP has become a sort of wrench in the works at the end of a planning process, rather than front end, being a proactive partner with the State Planning Commission and with the building and development community, in targeting growth to the appropriate areas. The department essentially did an exercise in trying to map out how they would approach its regulatory process on a more of a landscape basis. As they did this, they also incorporated information from the State Plan Map. The was done to try to have an approach, in terms of where can they have a quicker process, expedited standards reflect the work of the State Planning Commission. For example, they've incorporated Planning Areas 1 and 2 into the map as areas appropriate for growth, unless in certain areas they find an endangered or threatened species. For example, they've incorporated designated centers so that in sum total, as they went through the exercise, there's a high degree of correlation between the actual State Plan Map and what DEP independently was able to arrive at through the application of its criteria and it's importation of certain State Plan Map elements. The hope is that as they go through this process, several things will happen. First, that by working with the State Planning Commission, they will have the DEP's regulatory models basically converge with the State Plan approach so that DEP's regulatory approaches are actually reinforcing the State Plan. Making it easier to develop where the State Plan says it's appropriate and taking a closer look in settings that need tougher standard. There are some deviations that they need to be corrected. As mentioned earlier, DEP has been remiss over the years in incorporating environmental data and bringing that data to the State Planning Commission for its map. The department is really going through a process now where it will essentially be trying to correct its approach and working with the State Planning Commission to bring more environmental data into the State Plan Map with the ultimate goal that when DEP is finished its work, they'll be able to come to the State Planning Commission and have a high degree of confidence on the Commission's part that whatever adjustments need to be made either on DEP's side or on the State Plan Map side are one's that are strongly supported by the data, by good planning and by what they know about the environment. It is going to be a tough, complicated process to get there, in part because they're working within the DEP mandates initially. But the idea is that as DEP proposes its map and they're very close in terms of the right areas to build, etc, they will informally consult with planning officials. The department will be a meeting with a number of county planning officials and they are essentially trying to bring as much data and as much information from the public into the process. In the coming weeks, they'll be a version of the DEP Map that will be available on the DEP website, where you can actually go down to the lot and block level and point your cursor and understand what was driving the red, yellow or green in that area. As they go through the process, at the same time, bring the data that helped form DEP's map back into the State Plan Map process and try to understand where the diversions are so that they can be operating from the same set of assumptions. He mentioned that there has been nothing more frustrating in his job as Commissioner than to witness the fact pattern in which a builder/developer who wants to play by the rules, who follows the State Plan and the State Plan Map, learns at the end of the process after an investment of many thousands of dollars and on the side of local elected officials investment of significant energy and political will, they learn at the end of the process that there is threatened and endangered species habitat there. Or there's some other element there that makes DEP the spoiler- in- the- works at the end of the process, rather than a compliment to the work of the State Planning Commission and the work of good planning. It's the hope that as DEP revises its regulatory approach, they'll truly have a partnership with the State Planning Commission so that DEP and the State Planning Commission is working toward one map that can at each step work to make sure DEP is doing what they need to do from a regulatory perspective and also making sure they're keeping the State Planning Commission up to date on what the basis is for each piece of the map. This is a different approach from what DEP has taken in the past and in some sense, in terms of moving toward an integrated approach with the Commission. He mentioned that everyone

including DEP need to understand it as a partnership. There has been a lot of reaction that somehow this approach might undermine the State Planning Commission. He thinks this is the only way that DEP can reinforce the work of the State Planning Commission. Internally, he confesses that some of the reaction from staff has been that they are surrendering their authority to the State Planning Commission by working through this process. He thinks that there needs to be some understanding on both sides that the only way they're going to achieve the objectives of good planning and frankly the only way they're going to operate at DEP that avoids the failures of the past in terms of growth and development, is by engaging this kind of partnership with the State Planning Commission. He then opened up the presentation to questions.

Chairman Touhey noted that he had a lot of questions and would wait until the end. He also noted that the Commission members have been looking forward to the presentation and the opportunity to speak with Commissioner Campbell.

Michele Byers thanked Commissioner Campbell for his presentation. She noted that as someone who's been on the Commission for many years and wanting to see agency implementation of the State Plan, that she's excited about the approach that DEP is taking – that they're being proactive. She also noted that one of the big criticisms of the State Plan is that it's not making any difference. As, Commissioner Campbell has said, forty percent of development is going in a way that's inconsistent with the State Plan and she thinks implementation is what's been missing all of these years and mechanism to actually implement the Plan and she's very excited to see that DEP is taking on that roll. She mentioned that she's wanted to see that from DEP for many years. She also mentioned that she thinks, in terms of the confusion, what Commissioner Campbell said today about being in partnership and integrating the DEP work and map into the State Plan Map is extremely important because if they are going to achieve the goal of having predictability of where growth should go and where it shouldn't go, everyone has to be on the same page. So, she is very enthused about that. She said that as Chair of the Implementation Committee, they will be doing everything possible to take the data, the approach, the concept, the work that DEP is doing and get it into a process so it can actually be moved as quickly as possible into a planning map that people can use now, rather than four years from now, because implementation is so critical.

Commissioner Campbell emphasized that what he described as the partnership and integration with the State Planning Commission is also a partnership and integration across agencies. The DEP is working close with Commissioner Levin in developing the map, to see how this would dovetail with Community Affairs programs; also with the Commissioner of Transportation, then Jaime Fox, currently Commissioner Lettiere, in terms of the mapping this out, was and is consistent with where they thought the state needed to go in terms of transportation planning, road infrastructure (where they have underutilized and over utilized road infrastructure). This has been a very significant cross-agency undertaking that he thinks will contribute to the work of all the departments, including DEP.

John Eskilson mentioned he thinks that DEP's efforts ought to be consolidated and converged through the State Planning Commission or in the alternative are they to see a DOT Map, another DCA Map, and a DEP Map. He thinks in short order there is a need to get the processes consolidated and moved through the State Planning Commission process so they do lend predictability and certainty. He feels that there is a lot of confusion and uncertainty. There is uncertainty from builders who have local approvals in red light areas and don't know what's to become of their project that have literally millions of dollars invested in their project and feels that there is a need to get these things together in a hurry.

Commissioner Campbell said that he agrees but also counseled that DEP, in terms of revamping the regulations, has a legally prescribed process that they have to follow and he thinks it's important not to short change that process. Not only for legal reasons but simply from a public buy-in perspective

and to make sure it is right. It will take time on the regulatory process. There is a lot of uncertainty that's been generated and actually concerning what happens in the meantime. In the meantime, the State Plan Map remains the State Plan Map and DEP's approach can't be given any regulatory effect until they follow the legally prescribed process. Later in the day, he will be making it clear that until the process is finished, the proposed map does not have any regulatory effect. They will continue to process permits and continue to process approvals under the current rules until the rules are changed. Once they get to the end of their process, then they will come to the State Planning Commission and find out what is left to make their approaches compatible. Even before they get to that point, they're incorporating the work of DOT, DCA and other agencies, so state government will have one map. In the meantime, there is work to be done and DEP is hoping for the support of the State Planning Commission in making sure that in the meantime, the State Plan Map is able to import wherever possible, some of the base line data that they have used to build the map so they can move the approaches closer and provide greater predictability to the building/development community so they can reduce as much as possible, those occasions where DEP's regulatory outcomes are turning out to be inconsistent with the State Plan Map. That is simply not good government whether it's from a planning perspective or from a regulatory perspective.

Chairman Touhey added that from a DOT perspective and DEP perspective, he's met with both Commissioners to lay out and make clear that the State Planning Commission would like to see the data and information, particularly as it relates to the map and that they need to work quickly because of the uncertainty that's out there. He also believes that the map is the State Plan Map and that the Commissioner will be issuing a letter to that effect and that there is a process to go through on this Commission, legally what they need to do, and they need to get that message out.

John Eskilson expressed his concern that he hopes they don't have multiple regulatory processes going on at the same time that will lend to confusion, create delay. If they have a regulatory process/cross-acceptance to adopt this map, he's concerned that would cause delay and would be the kind of thing that will create just unworkable situations for local government.

Chairman Touhey expressed that they're not looking to create three different maps. There is one map that everyone is going to live by and that's the State Plan Map. It allows in the State Plan for the State Planning Commission to get new information, new data and bring it to the Commission to determine what they think can overlay this map and what's going to happen in the process is that they (the SPC) are going to be out doing cross-acceptance again.

Commissioner Levin agreed with John Eskilson. She noted that the State Plan Map is the legally adopted map. There have been many suggestions about changes that need to be made additions and subtractions to the State Plan Map and technical corrections. She thinks the first step is to recognize that the State Plan Map is "the Map". What DEP has done is map in a landscape form, to use the Commissioner's words, DEP regulations. Commissioner Levin questioned if the DEP map represents proposed and/or existing regulations.

Commissioner Campbell responded that the map consists of essentially existing environmental data but it imports, as well, some significant elements of the State Plan Map, Planning Area 1 and Planning Area 2.

Commissioner Levin recognized that and wanted to make sure of the regulation piece. She continued that the first step is to make clear that the regulations that Commissioner Campbell is talking about are DEP regulations that adopt in a regulatory format the proposals for DEP review. She mentioned that you don't have to have a map for that. It's helpful, but essentially, she thinks what they are looking towards is a DEP tiered review so that there can be an expedited review in the growth areas which is obviously part of a smart growth approach. DEP could do that on it's own without ever

coming to the State Planning Commission and could have that map with those regulations as part of its process. However, what they are doing is taking it one step further to make it better. Once DEP adopts those regulations, they will come back to the State Planning Commission. There may be changes to our State Plan Map that are relatively small in number which can be done through map amendments, for example, some glaring error that perhaps is a growth area with severe environmental constraints or vice versa. However, she said it is more likely that there will be changes that merit a full cross-acceptance process and they are coming to the point that they should be having another cross-acceptance process in any event. She believes that this enables us to have a cross-acceptance process that looks at this much more comprehensively, that looks at the environmental data and planning data and gives us any opportunity. It means that it will take longer but she suggests that as long as they recognize that the State Plan Map is the map for our planning purposes and that DEP has regulations, which currently exist, and what they are seeing here is a way to improve those regulations. Lastly, she thinks that they are all proceeding in the same direction.

Commissioner Campbell urged everyone to consider this not by reference only to the State Plan Map but by reference to the current regulatory status quo which is that there is another map. It is the map of regulatory outcomes as people discover them at the end of the planning and development process. It's not a map that's available to anyone. He noted that builders and developers have said for years that they want some way to understand and make predictable what regulatory outcomes are because they are waylaid when they follow the State Plan and then find out that there's a different answer from DEP. So he said to please bear in mind, as they go through this, not just with the idea from a planning perspective and from the work of the State Planning Commission, but also from the status quo and the regulatory side. Most developers understand that they are in a red light, green light system currently. They just can't get access to or any predictability about where those areas are. Secondly, in terms of the State Plan Map, if they can get the major borders in terms of what areas are appropriate for growth or not and some intermediate category for our regulatory models, there will still be many areas where the State Planning Commission may want to have additional levels of detail in terms of planning areas and things like that will work in concert with DEP's regulations.

Chairman Touhey suggested that for clarification purposes that perhaps they can refer to the map as the DEP Regulatory Map. He reiterated that what he thinks Mr. Eskilson was driving towards is that there are many discussions about what is the map and for those that aren't present, they won't hear what was laid out.

Michelle Byers commented that in terms of moving as quickly as possible to one map, so to speak. It is her understanding that the State Planning Commission's current rules allow for taking our current map and amend it based upon new information, and that the Plan Implementation Committee and the State Planning Commission can immediately begin to incorporate the DEP data into the State Plan Map and do map amendments now without having to go through cross-acceptance. Therefore, she thinks that they can expeditiously move towards merging these two maps immediately and then as the DEP goes ahead with its rule revisions, there may be greater changes that may come about to the map. That will lead them to their timing with cross-acceptance and at that point they may be going out to cross-acceptance, but in the meantime it's necessary to move as quickly as possible to have one map.

Chairman Touhey stated that there are two things that have to happen. One, what constitutes a map amendment and what constitutes cross-acceptance from a legal perspective as it relates to the State Plan. Two, they need to review the data and information and then make those determinations.

Commissioner Levin clarified that the map amendment process is something that they should look at and work through with the Plan Implementation Committee. However one can only use that map amendment process if the changes are less than 15% and therefore, in the end they want to make

sure that they have a cross-acceptance process. She suggested that they use the Plan Implementation Committee to work with DEP to look at these issues to the extent that there are the types of changes that make sense to do through the map amendment process and do it that way.

Commissioner Campbell added to the discussion that once the DEP regulatory map is completed and they worked with the State Planning Commission to reconcile the State Plan Map, their hope is that any changes to the DEP regulatory side a prerequisite to those changes would be coming to the State Planning Commission and getting their approval through cross-acceptance or plan endorsement or what is appropriate. So while it may appear that they are sort of in the lead in integrating this approach into our regulations right now, over the long term their hope is to create a more central role for the State Planning Commission in any future changes and holding their regulatory process in a true integrated fashion with the State Planning Commission over the long term.

Chairman Touhey clarified for the public that there is no suggestion on the part of the Commission that it is only trying to do map amendments nor make any premature determination based on anything. The reality of the situation is that they may be facing cross-acceptance again so he doesn't want the message to be when everyone leaves that the Commission just got all the information and we are going map aments. He stressed that he wants it to be very clear that there is a process that they have to follow and go through and if it's just map amendments, fine, let it be, but understand that everything is on the table.

Donna Pearson commented that there has been a lot of concern, particularly in the southern counties of Cumberland, Salem and Cape May, that this is going to become an arbitrary map without any input from the counties and local planning offices. She noted that she is very reassured to hear that there is going to be a process by which the counties will be giving the opportunity to give their input. She explained that these counties definitely need the development and they also need the ratables. They are also very cognizant of the need to preserve open spaces and pristine areas. People are very much looking forward to working to make this process and the map applicable in these counties.

Dr. George Pruitt applauded all three Commissioners and the Governor for their approach. He noted that there has got to be a change in the culture. When towns, municipalities, developers, citizens, banks, and financing institutions look toward building things in the state, they look at the assets and impediments. The State Planning Commission, DEP and DOT always come up on the impediment side of the list and they can't get these things done unless the system has predictability for people going into and has incentives. He would love to see the day when those agencies come on the asset side of the list. That's the day they are trying to get to and that's not going to happen as long as the current culture, style and approach continues. There's got to be some conversions beyond DEP, State Planning, DCA, and DOT so that everyone knows where the incentives are, where the development needs to go, and where people will be worked with and supported versus the areas that need to be left alone. The confusion is going to be what DOL's role is in this and breaking down the various silos so that they are calibrated against a common set of standards, what they are and where they reside. But if they don't get those things done, the kind of outcomes that everyone on the State Planning Commission wants to produce won't happen and can't happen and it will frustrate everyone that has sat around the table since the Commission has been in place. They have to figure out a way for this to happen.

Mayor McKenna said that this is a very bold stroke. He explained that he has been on the receiving end of State Planning Commission reports in many different instances: both as a public official, and as an advocate for municipalities and as an advocate for developers. The frustration that has been met with constantly has been the failure to coordinate between various agencies. This is the first time that he's seen a Governor and a group of Commissioners get together and say that the process is flawed and that they are going to correct it and move forward. He thinks developers in the long run will be

grateful for the guidance that will be provided as a result of this process. It's certainly going to diminish confusion in the long run. He has heard many comments from various people who are clueless as far as what the process is all about. He thinks that it is incumbent upon all of us, meaning the State Planning Commission as well as the various Commissioners, to get as much information out to the public as possible to diminish confusion and let people know that they are dealing with smart growth. They are not telling people that they can't build anymore, which is what some people seem to interpret as the message being sent out. He thinks the Governor has repeatedly recognized that there are going to be one million additional people living in NJ over the next 10 years and that they will need a place to live. The problem is that they need to give them the right place to live in the right area. He supports the efforts and thanked the Commissioners for everything they have done. Lastly, he noted that, as a Commission, we will put in as much time and effort as necessary to ensure proper coordination and cross-acceptance at the end of this process.

Commissioner Campbell commented that he couldn't emphasize enough that this is a pro-growth approach. In terms of changing the culture, one of the cultural changes that will have to happen at DEP is that they can't, as regulators, have it both ways. If they go through this process and say this is an area that's appropriate for growth when that individual permit comes in and they're turning it around, the department can't say that they have discovered this other issue that they didn't know about when they did the mapping exercise and when they work with the State Planning Commission. The department will have to live by the mantra of predictability when push comes to shove. He is aware that there are qualms about that, from the environmental advocacy community. The one assurance he noted was that the error rate in a more rational approach in terms of protecting the environment is going to be much lower than in the current, largely dysfunctional system. He thinks the issue of culture change of making clear that where they say there is growth they are actually going to help promote that growth, recognizing that every bit of redevelopment/development in an area that is appropriate for growth from an environmental or planning perspective is an acre of more pristine land or species habitat that they are going to be protecting.

Monique Purcell thanked Commissioner Campbell for his presentation and bringing the policy objectives of the plan to the table. Beyond the map they also have to talk about what it means to be red, green, and yellow, which points right back to the Plan where they had all that set with objectives for each Planning Area laid out. We need to make sure that as they go through these regulatory changes that these objectives are actually the outcomes. So the outcomes are the objectives of the planning areas and that's communicated as well. She thinks that will help a lot with some of the confusion.

Commissioner Campbell agreed with Ms. Purcell about the importance of the outcomes. Part of the message that's been lost in terms of red being "no growth" or green being "no standards" there will still be requirements and standards in green light areas, but they want to turn those around quickly and have a predictable path. In the so-called red light areas, it's going to be tougher but it's not as though they are going to have to take all that off the table in terms of development. At every step they are looking for ways to make the regulatory process smarter to reflect the State Plan principles, even apart from the landscape mapping exercise.

John Eskilson commented that part of the Commission's work involves reviewing center petitions. Areas that the municipal governments have deemed appropriate for whatever reason. A lot of those areas will be in the red light zone featured on the map. If those center petitions make it through and are approved by the State Planning Commission does that, by definition, put a green light in that bounded area on the DEP Map?

Commissioner Campbell answered by saying that they incorporated all the designated centers. There is another set of identified, but not designated centers, which I think is what is being referred to. They

are working with the Office of Smart Growth to identify those in the version of the map that will come out. There has been difficulty with the identified, but not designated, centers they don't have good GIS coordinates for them or where would the center would be if they wanted to put it on a map. What they'll likely do at minimum is have a list of the identified, not designated centers, the pending centers on the web with the map, and basically invite those concerned with those centers to register whether or not they would still like to be a center and to give us the meets and bounds of what the center would be. They'll take that information and cross walk it against the environmental criteria to see if they can make those essentially green light areas. What they are hoping is that this will actually compliment and lighten the burden of the State Planning Commission. If they go through that process it will expedite or add to the process of sifting out which of those pending centers should be designated and getting the GIS information on where they are. DEP is very cognizant of the need to factor in those centers. He mentioned that it's very much a mixed bag. They haven't done much environmental screening of those. It's a mixed bag from a public or political will perspective. There are some centers on the list that have come to us and said, "don't list us", because they don't want to be a center anymore. Others are very anxious because they see that they are red and need centers. They need to process those and it is very much a central part of their work in the next phase. He credited Commissioner Levin, Director Zellner, and Secretary Kuperus, in particular, for being very vigilant about the need to address those identified, but not designated centers.

Michele Byers added that the Plan Implementation Committee is made up of the cabinet representatives of the state. DEP has historically been a member of the committee and a very strong contributor. So if there's a water supply issue or a wetlands issue they know that before the town even comes before the Plan Implementation Committee and have those issues get ironed out well in advance so a town is not down the road proposing a center and then having DEP say no. They have that mechanism in place already and it's just a question of using the structure that they have and really keeping in mind the goal of getting the information early and getting things off the table at the start before they end up with a problem down the road.

David Fisher apologized for being late and missing the earlier comments but expressed his appreciation for Commissioner Campbell's presentation and the explanation that he provided. Recognizing that it has been a while since the last meeting and that it was the first meeting since the State of the State Address and a lot has happened and monumental things have been proposed, he said that he was still confused. (He was disturbed by the State of the State Address). He noted as someone who is a homebuilder in the state and represents the building industry, he wanted to ask the Commissioner a few questions before he made some observations about the process. Specifically, is he addressed the Commissioner mentioning that 40% of the development that is taking place is inconsistent with the State Plan. He asked the Commissioner how the figured was achieved and was it over a period of time? With respect to types of projects, could a small lot subdivision be okay in a Planning Area 4 or 5 or was that consider inconsistent, or is a project in a Planning Area 3 on sewers inconsistent with the State Plan?

Commissioner Campbell said that he could get Mr. Fisher that detailed information. Off the top of his head, it was slightly less that 40% - 39 and some odd percent and he believed that the source of that was actually the Office of Smart Growth staff, but said that he would follow-up with him about how the breakdown was done.

David Fisher also asked if Commissioner Campbell could identify the environmental considerations or what types of environmental constraints that went into the preparation of the map that presumably created the red.

Commissioner Campbell responded that the basic list consisted of threatened and endangered species, wetlands, certain water supply issues that were incorporated into the map and then on the

other side, in terms of what they knew about areas that were appropriate development they generally assumed, unless they had affirmative evidence to the contrary that Planning Areas 1 and 2 should begin with the presumption that they were green light areas. Wetland, sewerage, and threatened and endangered species were among the principle elements.

David Fisher said that one of the things that Commissioner Campbell had indicated was that he doesn't like to see developers in the predicament that when they come to him toward the end of the process they find themselves with the department saying no when local plans were acceptable and local approvals had been secured, but if threatened and endangered species and wetlands are two of the primary criteria used in developing that map that's one of the first things builders do. He said that they don't normally find themselves in serious problems when the very first thing they always do when they look at land is to look at environmental constraints and hire a wetlands expert and go out and delineate and submit to the DEP for an LOI. The LOI comes with a resource classification and while exceptional is more difficult to deal with than intermediate in terms of buffers at least they know where they are. He said he was surprised that there weren't other criteria that was either used or considered when developing the red. When he first saw the map that came out on January 16th it had less green than that map the map shown today. He noted that from what he could tell it was just Planning Area 1 on the original map.

Commissioner Campbell explained that between the initial conceptual map that went up on the web, largely crediting the help of Chairman Touhey, they did incorporate additional elements that led to a great deal more green and yellow in the map as you go to a higher level of detail, so that was correct. He also noted that it may be that some builders seek those permits first in some sense although there is also a whipsaw even within DEP between wetlands, endangered species, wastewater, and water allocation where a builder and developer might get different answers from each program. Part of this exercise and the regulatory reform piece is to try to have each program within DEP providing similar signals to the building and development community. He also said that builders and developers are one important constituency in this, but also has a great deal of sympathy for the plight of local municipal and planning officials who, when they target an area for growth or development, they are not going to the wetlands permitting program to see if they are targeting the right areas, to see if there are threatened and endangered species. He thinks this tool will enable them to do that more effectively.

David Fisher agreed that it may and said that there are many towns that do natural and environmental resource inventories. He asked what would happen if they came up with ways that were different -- either more restrictive or less restrictive - and if they have identified areas for growth or growth potential that his map doesn't provide for.

Commissioner Campbell replied that it's the department's expectation that if there's a cross-acceptance process that follows the development of this map and the integration with the State Plan Map that the cross-acceptance process would essentially be to provide the opportunity for them to come in and say what they think. For example, to say that yellow needs to be retailored in such a way, they've identified certain other resources, etc. There are going to be a series of issues like that which will need to be worked through. He urged that the reference point be the status quo where that dialogue isn't happening at the front end. Where it's only happening after the fact, at the end of the development process, and even though there will be issues to work out, it's a far better approach than waiting until each entity goes on its way and does its planning and makes its decisions and then the clash or the train wreck only comes at the end.

David Fisher said that he was surprised at what has happened between the State of the State Address and today. He said there was no mention of the State Plan in the Governor's address, which surprised him. There was mention of a one-year building moratorium in the Governor's address,

which also surprised him. He's not sure what it is for or what the legislative package that's been talked about will provide for and was bothered by the way in which the speech was delivered. He didn't think it was necessary and thought it polarized groups rather than bring them together and thought that it just played on people's ignorance about the land use process in New Jersey. He mentioned that from his point of view, as a builder, the land use process is complex and the builders are controlled as an industry. In fact, they are probably one of the most regulated industries in the state and they don't make up the rules. Towns, counties and the state do. He added that the builders follow regulations and market trends and try to navigate the regulatory process. One part of the whole State of the State that bothered him and the first version of the map was that they're still not really talking about where growth can be accommodated. Planning Area 1 is largely developed, which is an expanded version and which may include sewer portions of Planning Area 2, but many of the people he has talked to even on the DEP chat line, and much of the reaction to the State of the State Address has been that it's not possible to fit anymore people in his town. They are already built-out. He voiced his concern that the Administration hasn't really laid out a housing policy, in terms of how to address housing the one million people that the Governor referred to, but made it clear that this was the map and not the State Plan Map in the State of the State Address and how they're going to address the affordable housing needs in New Jersey because they are so closely tied in to the State Planning Act with the Fair-Share Housing Act. Most of what he's heard since the State of the State address, in reports from the media or in discussions that Commissioner Campbell and Commissioner Levin have had, it is a top-down approach or tools to say no for municipalities, disincentives. He said that he hadn't heard much about incentives and where the growth would occur. He's also heard things about how developers don't pay any fees and they don't provide for infrastructure improvements, but yet in the land use laws, it makes them pay for sewer or infrastructure, water infrastructure, drainage and road improvements. He didn't know where that was coming from either, which was why he was disturbed by the tone of the Governor's speech and didn't think that it brought anyone closer. Although, he mentioned, maybe Chairman Touhey has done a lot since then, he has had some discussions with him and it looks like this map may be coming back through the State Planning Commission and there will be a lot more discussion about what the outcomes may be as a result. He apologized for venting and said he felt he had to because it was the first meeting since the Governor's address and he felt that it was important to get those issues out on the table.

Commissioner Campbell responded that the Governor had a very clear and consistent message, not merely that we need to stop over development that generates congestion and compromises the quality of life in towns, but also that there is a need to promote development and redevelopment in the areas that are appropriate. Some of those areas are already developed areas, some of them are areas that haven't been developed, but are appropriate from a planning or environmental perspective to accommodate new growth. The consistent message from Governor McGreevey has been one that both we need to strengthen protection of the areas that we want to protect and we also need to provide a more rational system that actually facilitates, accommodates and promotes growth in the areas where it is appropriate. He thinks that the evolution, in terms of the importation of more of the State Plan into DEP's regulatory approach is part of the process. He noted that later in the day he would be meeting with a range of builders and developers to say that if the state looks at the things they can do on the regulatory side to make the process better, faster and cheaper than what are their ideas or obstacles and impediments even in the areas that are appropriate from a development perspective and it is a dialogue that is occurring across departments. An example of that is permitting at DEP, but there are also things like highway access permits at the DOT. Commissioner Lettiere has said that if DEP is expediting the processes on its end those should be the areas where they expedite highway access permit decisions as well. He said that he has taken ideas from discussions, the ideas that have come from the building and development community, and, in fact, from the close of the Smart Growth Summit that the Governor convened where the Governor issued an Executive Order that was really built around many of the proposals that came from the building and development community about how to produce that more rational process that would encourage development and

redevelopment in the right place. Without going into every criticism, he wanted to say that he thought the Governor has had a very consistent and very balanced message.

David Fisher asked that Commissioner Campbell look at the report that was delivered to the Commission last July from the Joint Revitalization Task Force. The report was done jointly with the Brownfields Redevelopment Task Force and feels it goes a long way toward making solid recommendations in terms of how to provide those types of incentives especially for infrastructure financing.

John Eskilson mentioned, with respect to approved sewer service areas in the red light zones, it appeared to him that there have been numerous sewer service areas that do not appear. There is capacity at the plant and these service areas obviously have gone through the DEP process and local process. Many of them have undergone EO109 analysis, yet they don't appear as growth areas. He questioned what the future was there and can they read the red light to mean development in those approved sewer service areas will have difficulty securing TWA's through extension permits and the like.

Commissioner Campbell responded that in terms of whatever the color is, be sure and check the next version of the map because many of those sewer service areas were actually added in the last several weeks, as they made the cut. Basically, if it's in a sewer service area and in a Planning Area 2, it's essentially in, unless there is threatened or endangered species that would take it out. In terms of the earlier comment that there's substantially more green in that area, he said, that's one of the drivers of the change – sewer PA 2s came back in so there's a lot more of that area. For those sewer service areas that were clipped out because of threatened and endangered species habitat, they were only putting at the front area the issue that would have had to have been addressed if they actually went through the process and assumed that they were in a green light area because of the sewer service area. He said, they are trying to resolve those issues proactively up front making some difficult decisions along the way. The changes to be seen in the next iteration of the map will be responsive to a number of the issues raised.

John Eskilson said that as someone from Sussex County the issue has caused a great deal of concern. Specifically, what will become of projects that have received local approval and are in approved sewer service areas that don't necessarily have infrastructure in the ground. The builders are reading the red light as a red flag and are calling local and county planning departments asking what is next and if they're going to be able to get the necessary sewer extension permits and TWAP permits and the like in order to finish their approved project. Along the lines of predictability and certainty, it's important to address that issue.

Commissioner Campbell agreed and said that some of the most substantial changes that will be seen in the next iteration of the map are actually in Sussex County. He mentioned that in terms of developing the process, there is a legally prescribed process that they must go through, in addition to their process with the State Planning Commission. Until that is done, the current rules are the rules. He said that he would make sure that it is respected through some kind of transition rule. For example, the situation where a builder/developer has gotten two out of their three permits and is wondering if the map is going to turn that process on its head. He said that there are also going to be areas that are going to wind up in the red that will already be developed sights. Due to limitations of data and mapping, they aren't going to be able to know where every concrete pad is and every developed sight in the red areas. Therefore, a substitutive rule will be needed, such as one that states that even if a red area that's a redevelopment, that will fall more into the green light model, even though it won't be mapped out at that level of detail. There are a series of issues like that transition, like redevelopment, that will be dealt with through substitutive rules that will be developed as they go through the process.

Chairman Touhey mentioned that Michelle Byers had one more remark before closing, but first wanted to thank Commissioner Campbell for his professionalism and his willingness to come in front of the Commission, as well as for providing the Commission with access to him. He recognized that it wasn't easy for him and that much has happened in the past 30 to 45 days.

Michelle Byers commented on the sewer service area issue and recognized that it has been one of the problems with the State Plan that has occurred over the years. Vast areas of the state are in approved wastewater management sewer service areas and there's no sunset to those areas. When objectives are examined in terms of farmland preservation or on-site resources, there probably should not be sewer service areas and one thing that the Commission's been looking to DEP to do for years has been to come back to the Commission and present a mechanism to sunset the sewer service areas, it would mean going through a rule proposal, but to make those sewer areas concomitant with the State Plan. They still haven't gotten there yet, but she is hopeful that the process of bringing DEP implementation and regulation into the State Plan process will get them there. Middlesex County, for instance, has most of its county in a sewer service area, but is not entirely in Planning Area 1 and 2. There are big areas like that in Cumberland County, which are farmland areas that are sewer service areas without pipes in the ground, which probably shouldn't be if the State Plan is to be implemented with a center based development; those sewer service areas need to be shrunk back. Additionally, through the process of center designation, they were able to, in some instances, get agreement from towns and counties to shrink back the sewer service areas to make the boundaries consistent with the center boundary. There have been small successes along those lines, but she said she thinks it's a really important issue and she doesn't think that just because the sewer service area is approved in existence right now that's not the way it should be built out. She said she thinks this is an opportunity to really make some sense about how to integrate the DEP regulations with the State Plan.

Marilyn Lennon mentioned, that every sewer service area has had to have maps associated with them by lot and block of where they would not serve, which was Executive Order 11-9-88, 11-9-90 in the late 70's. She said that those maps were probably buried in a back office in the sewer service area. She said that it was a condition of the funding for those sewer areas from a federal standpoint. But, 20 years later, its unknown if anyone has even looked at them. It may be a useful tool in the sewer service areas to take a look at all of the mapping that was done of environmentally sensitive and wetlands areas, by block and by lot, that can not have sewer service.

Chairman Touhey thanked Commissioner Campbell again for his presentation.

Commissioner Campbell thanked all of the members of the Commission, particularly the Chairman for letting him consume as much of the agenda and time as he had. He said that the issues are enormously important for DEP, but hopefully the start of a much stronger partnership with the Commission. He mentioned that it was merely the start of the process and he hoped that with the Commission's indulgence he would to return to be able to keep the Commission informed and get their ideas and suggestions as they go through the process. He recognized that they are not easy questions. He said that he has been working on those issues for more than a decade and every day another issue is presented that he hadn't previously contemplated, members of the Commission raised many of them. DEP will need the Commission's help and counsel as they move forward. He said that the important message from the Governor's State of the State Address, whether or not one disagrees or agrees, is that they cannot afford to delay resolving those issues any longer. They need to take them on, discuss them, and reform what is done at the various departments, including at DEP. He is very much looking forward to the counsel and wisdom of the Commission as they try to get that job done.

APPROVAL OF MINUTES

Chairman Touhey asked for a motion to approve the minutes of the December 4, 2002 meeting. Chairman Touhey made a motion to approve the minutes and John Eskilson seconded the motion. Ayes: (14). Michele Byers, Bradley Campbell, John Eskilson, David Fisher, Jim Lewis, Monique Purcell, Marilyn Lennon, Marge Della Vecchia, Daniel Levine, Edward McKenna, Donna Pearson, George Pruitt, Peter Lazaropolous, Tim Touhey. Nays: (0). Abstains: (1). Lauren Moore.

Chairman Touhey welcomed Peter Lazaropolous to the Commission. He said that it was a good first meeting for him to come to and that he appreciated his work. Mr. Touhey motioned to appoint Michele Byers as the Vice Chair and Edward McKenna seconded the motion. Ayes: (13). Bradley Campbell, John Eskilson, David Fisher, Jim Lewis, Monique Purcell, Marilyn Lennon, Marge Della Vecchia, Daniel Levine, Edward McKenna, Donna Pearson, George Pruitt, Tim Touhey, Peter Lazaropolous. Nays: (0). Abstains: (0).

Chairman Touhey made a motion for the Public/Private Investment Committee and indicated that he would Chair and John Eskilson would be the Co-chair of the committee. David Fisher, Dr. Pruitt and Peter Lazaropolous from the public side of the Commission and representatives from the Departments of Community Affairs, Treasury, Transportation, and the Commerce and Economic Growth Commission would also be on the committee. Edward McKenna seconded the motion. Ayes: (14). Michele Byers, Dan Ryan (for Bradley Campbell), John Eskilson, David Fisher, Jim Lewis, Monique Purcell, Marilyn Lennon, Marge Della Vecchia, Daniel Levine, Edward McKenna, Donna Pearson, George Pruitt, Peter Lazaropolous, Tim Touhey. Nays: (0). Abstains: (0).

Monique Purcell mentioned that it may make sense for the Dept. of Agriculture to be on the Public/Private Investment Committee as well and Chairman Touhey agreed.

Chairman Touhey mentioned that staff had informed him that he could not have Adam Zellner chair the Legislative Committee, so he asked David Fisher if he would like to volunteer. Mr. Fisher said he could not because he was already on the Plan Implementation Committee and that it would be too much. Chairman Touhey then asked the Commission for a volunteer. Chairman Touhey asked Marilyn Lennon and asked for a second. Michele Byers seconded. Ayes: (13) Michele Byers, Dan Ryan, John Eskilson, David Fisher, Jim Lewis, Monique Purcell, Marge Della Vecchia, Daniel Levine, Edward McKenna, Donna Pearson, George Pruitt, Peter Lazaropolous, Tim Touhey. Nays: (0). Abstains: (0).

Chairman Touhey added that from the State Agency side, Department of Transportation, Department of Agriculture, Department of Environmental Protection and the Department of Community Affairs would also be on the Legislative committee.

Chairman Touhey clarified that he had already appointed Michele Byers as Chair of the Plan Implementation Committee and on the committee would also be himself, David Fisher, Edward McKenna and all the state agencies. He asked Donna Pearson if she would like to be on the committee as well as. Ms. Pearson responded yes. Ayes: (14) Michele Byers, Dan Ryan, John Eskilson, David Fisher, Jim Lewis, Monique Purcell, Marilyn Lennon, Marge Della Vecchia, Daniel Levine, Edward McKenna, Donna Pearson, George Pruitt, Peter Lazaropolous, Tim Touhey. Nays: (0). Abstains: (0).

Chairman Touhey congratulated everyone and said that he looks forward to the work. He thanked Michele Byers for her work on the PIC, where much of the work gets done.

EXECUTIVE DIRECTOR REPORT, Adam Zellner, Executive Director

Mr. Zellner thanked the Department of Environmental Protection for being there at the meeting and for working with the Commission so closely. He welcomed new staff members from the Office of Smart Growth: Darcy Horner, Jason Goldberg and Herman Volk. He also introduced Maura McManimon, from Commissioner Levin's office and who has been very helpful working on Smart Growth issues. Mr. Zellner gave a special thanks to Ed Fox, one of the Area Planners in the Office of Smart Growth, who has been a wonderful resource to the office and that he would be moving on shortly, and further said that Mr. Fox will be a fantastic asset to wherever he goes in the future.

Chairman Touhey asked what the new staff would be doing. Mr. Zellner said that Maura McManimon will be working with Smart Growth policy issues for the Commissioner's office; Darcy Horner is part of the office support staff and will be working closely with Robin Murray on the Outreach Team; Jason Goldberg will be working with the GIS section and on our office web site, and he has already done a wonderful job making it look brand new and updated and Herman Volk is our Transportation Coordinator, a long time Dept. of Transportation employee who has graciously come on board for a while, to help with the MPO's and help deal with DOT and coordinate with Transit, etc.

COMMITTEE REPORTS

Plan Implementation Committee, Michele Byers, Chair

Ms. Byers announced that she had a very short report and was glad to see new Committee members, such as Donna Pearson. She announced that there will be a very big agenda ahead and wanted to reiterate the work that the committee is going to be doing over the next year. The Committee will be winding up pending center designations, which they have an obligation to finish; map amendments, including the Department of Environmental Protection discussion that they had earlier; moving towards plan endorsement; how to get at the issue on a regional basis, working with municipalities and counties; also, petitions from third parties regarding complaints on centers and center monitoring reports will be issues to be addressed. Finally, they will be conducting a review of the rules, in particular; there are proposed rules that are currently out for public comment, and the committee will be reviewing comments on those rules for this year, 2003. For next year, they will be embarking on a comprehensive review of all the State Planning Rules. She announced that the next meeting to be Wednesday, February 26, 2003 beginning at 9:00 a.m. to about 3:00 p.m. She mentioned that the items on the agenda would include: center report issues, rule discussion and the processes of how to go about that. She welcomed everyone to the committee meetings and said that she is looking forward to a lot of work ahead and really getting the plan implemented this year.

Ms. Byers announced that she'd like to move on to Commissioner reports.

Mr. Lazaropolous thanked everyone for allowing his service on the Commission. He said that he received a lot of information from the meeting and will process all of it and will hopefully be able to offer a response at the next meeting.

Jim Lewis updated the Commission on the Transit Village Program, which they are partnering on with NJ Transit and the eight other state agencies. He said that the Department of Transportation recently held their annual partnership meeting with the eight designated communities and had a very successful meeting in sharing information, success stories, and some of the challenges that the villages are encountering. He also mentioned, that Governor McGreevey and Commissioner Lettiere had set a goal for them to double the number of transit villages over the next year increasing from seven to fourteen. He mentioned that the interagency task force will be busy and will be putting together a list of communities that they think are potential candidates.

David Fisher said that he saw, in one of the news reports after the map came out, a discussion with Commissioners Levin and Campbell and they were asked about plan endorsement and how towns will be required to follow the Plan. He thought that Commissioner Levin remarked about the fact that they are no longer accepting local plans for plan endorsement, but just regional plans. He asked if the rules still read that way now? Marge Della Vecchia answered “no”. He asked if that was something that was being proposed that has not yet been seen by the Commission? Marge Della Vecchia responded that there has been absolutely no change in the plan endorsement rules for receipt of local plans for plan endorsement. She said that she would have to see the article and that she thought that the intent was that there would not be new center designations, if she had to interpret it, but rather plan endorsements as opposed to centers.

Ms. Byers added that the Plan Implementation Committee is grappling with it and knows that it has been an issue for a few years now. The Governor in the State of the State talked about regional planning and she felt that one of the weaknesses of the statewide plan is the question of how to bring together home rule – The Municipal Land Use Law - together with the State Plan and get at regional planning. She thought that plan endorsement had promised to do that. They have not yet figured out what the structure will be to do that, and are anticipating that as they review the State Planning rules, they will look at changing the Plan Endorsement Guidelines to reflect a more comprehensive approach at regional planning. She mentioned that it is vague, but everyone talks about regional planning, and when it comes down to it, it is not an easy thing to just come up with a “magic bullet” on how to get there.

Monique Purcell introduced a new staff member in her division, Roberta Lang, who came from the Farmland Preservation Program and has a lot of expertise to add to the subcommittees. She also mentioned that she has been talking a lot about the Department of Agriculture’s smart growth plan. The department had its convention at the end of January, one of the speakers was Commissioner Levin. The conventions focus was on smart growth and agriculture and the idea that they are planning for agriculture’s future in five major areas: farmland preservation, innovative conservation planning, economic development, industry, sustainability and natural resource conservation. She said that as they move ahead putting that plan together, they will start with their outreach process to all the counties, targeting priority areas for farmland preservation, and hope to have that together in the next few months. She mentioned that they are happy to have the Agriculture community’s support in that effort as it is a huge undertaking within the department.

Marilyn Lennon welcomed Peter Lazaropolous to the Commission. She said that she was looking forward to working with him and thanked the Department of Environmental Protection for the earlier presentation. She commented that she was a “born and bread Jersey girl”, who lived in a house with a small lot, east of the Garden State Parkway, and is glad to see that they are starting to balance the map a little with human and natural environments. She said that the map is extremely important and is looking forward to working towards its implementation.

Lauren Moore said that the Commerce Commission is looking forward to working with the Departments of Environmental Protection, Transportation, Community Affairs and Agriculture as they move forward to implement the State Plan. He said that they are working closely with Carmen Valentin from the Office of Smart Growth so that Commerce can do its part to help attract business to growth areas.

PUBLIC COMMENTS

Jeff Tittel, Director of the New Jersey Sierra Club, said that he was glad to be there for the meeting and that he found it informative. He mentioned that he has been around the process for quite a long

time and that the Commissioner's are relatively new and haven't been through the different rounds of cross-acceptance, especially the first round back in the early 90's, which as someone who actively took part in it, can testify that there were several meetings. One example was when they wanted to put PA 3 near the Wanaque Reservoir in Ringwood and they had 300 residents who showed up in Paterson three times during snowstorms to oppose it. He mentioned that it is a big process and many people come out and it is not very easy. But one thing that should be understood is why, looking at the Big Map, it is important for groups like the Sierra Club. At the time, the fundamental flaw in the State Plan was that there was not proper environmental analysis. They did not look at water supply or endangered species, even at capacity in certain parts of the state. He said that without going into a lot of detail, New Jersey has the worst areas. Many New Jersey sewer service areas date back to the late 60's and early 70's where there was neither environmental analysis done at that time, nor existing analysis. No one looked at secondary and cumulative impacts, water supply or a whole range of things. Therefore, we should not be basing anything on old sewer service areas. He said that they really need to be re-examined because there was not an analysis done and, in fact, many of the sewer plants that were permitted in the state, never did a proper anti-degradation analysis, as required under the Clean Water Act. He said that New Jersey has many serious problems, for example, the USGS numbers, in the summer of 1999, out of 72 million gallons in the Passaic River at Little Falls, 70 million gallons were discharged from sewer plants at a water supply intake. It is known and understood that the stakes are high, which is why the Governor's State of the State was so important. The Governor understands the stakes that we face in the future, and that we will not have economic growth unless we do something to curb sprawl and protect our water supply. It is critical because part of the problem with the State Plan is that many of the growth areas were based on the sewer service areas where no environmental analysis was done, in PA 1 as well. He said that one thing that should be realized is that when the Sierra Club did a report about two years ago on sprawl projects in New Jersey, 22 out of the 25 worse sprawl projects in the state identified were actually in areas that were mapped for growth. Some were like Merrill Lynch in Hopewell, which was a farm field, others, like Ramapo Reserve in Oakland, where they blasted away the side of a mountain next to a major water supply stream that was actually PA 1. A narrow finger, the size of a pinpoint, on a map PA 1 in the middle of an area that is environmentally sensitive are the kinds of things that they see. It could be Windy Acres or Milogan farms, which are also in growth areas. There's much work ahead, but what the Commission should realize is that in order to get public buy-in, they need to make sure what they do is rational, defensible, and in the public interest. Sometimes things that were done in the past are really not defensible and they shouldn't be basing the future on it. Using the concept of identified centers; during the first round of cross-acceptance and that many of them were not done with any scientific, environmental, or planning analysis. They were whatever towns or counties wanted. Some counties had a lot and others had very few. He said he could go down the list and Sussex, as mentioned earlier, has actually one proposed identified village, called Edison in Sparta, which is actually a state park now. He said there was another one in Ringwood, called Upper Ringwood, which are a superfund site and a former mining area. Another concern is that there were well over 400. He mentioned that if everything is a center, then nothing is a center. Strategic thinking is important for places where growth is to be seen and where dollars are to be invested and to streamline the regulatory process not because they are already developed. Even in the red light areas, redevelopment - and there will be redevelopment - becomes a question of the intensity of that development. He said that redevelopment in Hunterdon County, in Clinton Township, should not be at the same level of intensity as in Bridgewater, Woodbridge or Perth Amboy, which is something that should also be looked at when it comes to redevelopment. He said that it is the fundamental underlying principles of the land and the natural resources that are really important when it comes to looking at the mapping, especially the State Plan Map. Looking at the State Water Supply Master Plan, there were whole areas of the state that were critical water supply areas that they mapped as growth areas, especially around the Rockaway River, Boonton Reservoir, Wanaque Reservoir, Round Valley and Spruce Run. He said that those are the kinds of things that he hopes the state will get at and why the map is important. He said he is one of the few people that can defend the concept of the

Big Map from the Department of Environmental Protection, because the Dept. of Environmental Protection's regulatory system has been broken for so long where they didn't do the proper analysis and as a joke, he said they use to call it the "Department of Eventual Permits" because they really didn't have the power to say no. If they didn't like the project, they would just drag it along in hopes that the people would just go away. That is why there were backlogs in permitting, because of how the rules were written. Eventually, they would get there, but if it was a really bad project and they didn't want to issue the permit, they would take a while in the hopes that those requesting the permit would give in and eventually leave or change their mind about the permit. He said that we should realize that there is a real regulatory problem within the state, within the Department of Environmental Protection, which is what Commissioner Campbell, is trying to fix. He mentioned that it has been one of the problems because part of the State Plan was based on the sewer service areas where the Department of Environmental Protection did not do its job. Part of the foundation was really sand and not built on bedrock. The Department of Environmental Protection has to clean up its act and fix its department in order to help the Department of Community Affairs do its job, when it comes to planning. He added a final thought about the growth areas of the state, which should be looked at strategically. The green areas, or PA 1, need to have an analysis done in order to make sure that there is enough capacity at the sewer plants. He said that when he looks at places like southern Bergen County, which are great areas for redevelopment, the BCUA Plant is at capacity because they have the CSO and II problems and they haven't put the money in to fix those problems. That is a critical area where money should be going. Other parts of the state, such as the Bridgewater 22 Corridor, cannot grow unless they get some mass transit because they are grid locked. We need to look at how and where to place our money in order to accommodate this growth. We need an inventory of redevelopment sites, which we don't have. We don't even know how many acres of Brownfields we really have and then there are underutilized sites and other prime areas for redevelopment because we can put a lot of growth in those areas and not even realize where they are, and we have done anything to market them. The State of Oregon, which is expected to grow by half the rate of New Jersey over the next twenty years, expects to grow by a half a million people and 400 thousand jobs and they have identified 35 thousand vacant acres throughout the state to handle that growth under their plan. In the vacant sewer service areas in New Jersey alone, there are over 340 thousand acres. We have much work to do to target the most appropriate areas for development and the most appropriate areas for limited growth or preservation. That is going to be the Commission's charge and responsibility. He suggested trying not to make the mistakes of the past. One of the reasons why Governor Whitman lost a lot of credibility on the issue was that at the same time when she talked about smart growth and saving a million acres, she allowed her administration to put 300 million dollars into a farm field in Hopewell for Merrill Lynch. There is always going to be a certain amount of temptation, especially when it comes to large companies, but the Commission needs to do its job in order to help New Jersey grow appropriately and protect natural resources because without water and clean air, we are going to lose our economy.

David Fisher commented that he agreed, especially on an inventory, Brownfield sites and infrastructure improvements for redevelopment areas, is what has been missing in order to implement the "growth side" of the plan. His concern about the Big Map is that they have gone through two versions of the plan and two versions of cross-acceptance and a process that engaged municipalities all over the state and counties that devoted a tremendous amounts of resources in money to go through a process they believed would align themselves more closely with the State Plan. For every acre lost in that map, compared to our State Plan Map, in terms of growth potential, our impact assessment does not mean anything anymore. He said that Rutgers is saying that a million people will come to our state over the next twenty years and Commerce will continue to attract businesses that will employ new people, but yet these people have to find a place to live. As we eliminate areas from Planning Area 2, and put obstacles in front of creating more centers, then how do we make up for that? He suggested that we be careful about taking out of Planning Area 2 and potential centers acreage that we need to make up somewhere else. Whether it is the intensity of use or additional

acreage from other areas, there will not be a balance unless we keep a very careful eye on how we do that.

Chairman Touhey mentioned, as part of what Mr. Tittel and Mr. Fisher were saying, is that the Planning Commission and the Dept. of Environmental Protection have never worked together in the past and the point was that there was never enough data or information, not that it wasn't requested by the Commission. He said that we are now at a place where we can get that data and information that hopefully will help as they go through the process. He mentioned that it will be much work, but it is critical.

Candace Ashmun said she that was very pleased to hear someone talking about implementation by the state agencies and that it is the first time she's heard that kind of discussion by the Commission. She said that she was concerned about going through cross-acceptance with a map that isn't right. She said that they should take advantage of the petition process in the rules for the state agencies to bring new data to the Commission, which she feels will make their next cross-acceptance much easier if the petition process is done first because it is shorter and then the Commission will have something that makes sense when it goes to cross-acceptance. She mentioned that municipalities need to be able to identify their areas of growth, which hopefully will be reviewed by the Dept. of Environmental Protection in the process and areas of growth will be able to be established. She mentioned that there are a lot of areas in the state that are in the red area, but do not require any permit from DEP to get used wrong. The State Planning Commission is the only body available to take care of that for both areas having growth and those not having growth, as well as for farmland preservation. She mentioned that the Commission can think and speak regionally all they want, but they do not have jurisdiction at the regional level and the municipalities will be making those decisions.

Dianne Brake, Regional Planning Partnership said that they talk about regional planning a lot and that she hopes that they will be able to have the opportunity to do regional planning in the very near future. She said that she agrees with the implementation, but that does not mean that the planning is over. She said that the initiative that the Department of Environmental Protection recently proposed means that planning should just begin, specifically land use planning. She said that she is concerned about getting agreements on where the growth is going to go and is also concerned about having one agency leading the initiative. She said that it is critical that the State Planning Commission maintain and strengthen whatever power it had as the place where all of the agencies and representations of the public come together to decide on where to grow. She mentioned that it is important for the Department of Environmental Protection to do what it has done. She said that she is familiar with the flaws in the existing State Plan Map and mentioned that GIS layers are not going to get everything that Commission feels they need to know. The Regional Planning Partnership has been advocating that everyone pay attention to at least three systems - which includes the economy, jobs and housing - and not separate growth management from affordable housing or workforce housing. She said that New Jersey should become the leader in workforce housing because it is the only way forward if it wants to be the leader in smart growth. She also stressed that it is important to know the direction in which the economy is going and to understand the role of the Port. She noted that we are a gateway state, meaning, that we have access to 70% of the United States market. She mentioned a concern of finding more green on the map than she saw originally because the Department of Environmental Protection should be the one to be outlining where the environmental constraints are and they should have the map with the most red on it and the most information about environmental protection than any of the other agencies. She said that the Department of Environmental Protection is ahead in the game now and that we have to rush to keep up, and we need regulatory framework changes. We can't expect towns to be operating under the property tax system and not be making decisions about commercial development that are going to be consistent with the State Plan. We need tools to allow municipalities to make changes to their zoning, know where those transit corridors are and how that fits with where affordable housing is going to be, and know how it is going to affect our economy in the

long run. She mentioned that they have a lot to know and should all be energized by what the Department of Environmental Protection has done with their initiatives because we need each and every agency to be just as aggressive. The Commission is the critical place where this is going to be resolved and she wished them luck. She offered her assistance and mentioned that the Regional Planning Partnership is developing a regional planning Legislation proposal that she hopes to be able to share with them in the very near future.

Chairman Touhey mentioned that there was a big hurdle made by the Department of Environmental Protection as a way of moving the process forward and that he doesn't know whether they are ahead or behind, but the fact of the matter is that there is a cooperative effort going on, which is critical. He also mentioned that Adam Zellner has put in a tremendous amount of time, with Michele Byers, laying out plan endorsement, and has that pretty well lined up and is getting full cooperation. Transportation is also putting together their map and Agriculture is working on a map. That means more information that will come to the Commission. He said he looks forward to everyone's support and energy.

Michele Byers clarified that the State Planning Act was structured to provide for each and every cabinet member of the State of New Jersey to have a roll on the Commission and be part of the State Plan. The Department of Environmental Protection is not a separate entity and is fully represented on the Commission. She emphasized that DEP is part and parcel of this body.

Edward McKenna said that speaking as a municipal representative, what concerns him is that too many public officials are either uneducated or ill equipped to address issues as they come to the municipal level. He said he spoke of this before and thought that they, as a Commission, have an obligation to help the municipalities understand what their issues are and address them in a universal mode rather, than address them in a reactive mode, which often happens. He said that planning needs to be fluid and that there needs to be a process to see what they are dealing with, plan ahead and hope that it works and if it doesn't then change the plan. He commented that we need municipal officials to step up to the plate and he hopes that we will start educating municipal officials about their responsibilities.

Rebecca Hersh, New Jersey Future, asked for clarification of the time line and next steps for the Office of Smart Growth taking the new Dept. of Environmental Protection data and integrating it into the State Plan Map. She was not sure when it would happen.

Chairman Touhey said that they had a conceptual timeline in mind and would let Adam Zellner address her question.

Mr. Zellner said that the Office of Smart Growth was currently working with the Department of Environmental Protection to update the sewer file and some of the information would be moved over within the next couple weeks. Once the data can be reviewed we will be able to better see what kind of changes are necessary. He said that the data change was underway at this time and that the Office of Smart Growth is working actively with them. As DEP goes down the road adopting their new regulations, OSG will continue to partner with them as new data becomes available.

Rebecca Hersh then asked if the plan was to eventually make amendments to the State Plan Map based on the Dept. of Environmental Protection data and Mr. Zellner confirmed that she was correct.

Tim Evans, New Jersey Future, said that he was speaking on his own behalf and his comments were not the official position of New Jersey Future. He explained that he was concerned over the process of arriving at one map while it is a desirable goal he anticipates two major obstacles. One being that the State Plan is prohibited, in the State Planning Act from being a regulatory document, so that if the State Plan Map is to be used as the single map from which all state agencies are working, something

will have to change in the State Planning Act and that the Commission is up for a big fight in doing that. The other, more serious, obstacle that he sees is the requirement for the cross-acceptance procedure that, if DEP's Big Map is taken and submitted as an amendment and has to go through cross-acceptance, it seems to him to be effectively allowing the general public and municipal officials to second guess the environmental experts at DEP in allowing the public to determine what our environmental policy should be. He rhetorically asked what will happen if the DEP Big Map gets presented as a map amendment and goes through the cross-acceptance procedure and the public comments result in all kinds of changes being made? Would DEP then have to revise its regulations? DEP is currently under no obligation to submit any of its regulations to cross-acceptance. Would DEP then have to revise its regulations because of the desire to have a single map? Or would the DEP Map be allowed to continue to exist as a separate entity separate from the State Plan Map?

Chairman Touhey responded by saying that cross-acceptance is open and municipalities have a stake in their own individual communities as well as New Jersey as a whole. That is one level of cross-acceptance and hopefully they will get the data and information so they can internalize, as part of the Commission, and have the real facts as Jeff Tittel laid out. Perhaps we didn't have all the real facts before as it relates to the map and it's a process they have to take.

David Fisher noted that Dianne Brake and Tim Evans raised some great points. He said that the problem that he has always had with the map was that it was put out as the new map for New Jersey and not as an environmental constraints map. If it was an environmental constraints map, it shouldn't have any green on it, but rather just layers of environmental constraints and then used through some sort of regulatory program to determine where you should be most concerned about development, limited development or not concerned at about development. That was not what was displayed and his concern has always been over why the Department of Environmental Protection came out with the map rather than the State Planning Commission. Going forward, his concern will continue to be over what information they are going to use from the Department to look at those types of environmental concerns relative to our State Plan Map and from all the other agencies so we can make the difficult decisions as to which are more important and in what areas. As to the last concern, he would hope that as they go through that process, assuming that they come up with a new State Plan and a new map in the end, all state agencies are going to have to use it and DEP will not have a choice to go back and say that they disagree with cross-acceptance and are not going to issue a permit here even if they felt it was more important that growth take place in that center.

With no further comments from the public or the Commission, the meeting was adjourned at 11:55 a.m.

Respectfully submitted,

Adam Zellner
Secretary and Executive Director

Dated: March 13, 2003