



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS

STATE PLANNING COMMISSION

OFFICE OF SMART GROWTH

PO BOX 204

TRENTON NJ 08625-0204

JAMES E. MCGREEVEY
Governor

SUSAN BASS LEVIN
Commissioner

TIMOTHY J. TOUHEY
Chair

ADAM J. ZELLNER
Executive Director

**New Jersey State Planning Commission
Minutes of the Meeting Held October 20, 2004
Thomas Edison College
Prudence Hall
101 West State Street
Trenton, New Jersey**

CALL TO ORDER

The October 20, 2004 meeting of the New Jersey State Planning Commission was called to order by Timothy Touhey, Chair at 9:45 a.m. on October 20, 2004.

OPEN PUBLIC MEETINGS ACT

Dan 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
Joanna Dunn Samson, Designee for Commissioner Bradley Campbell, Department of Environmental Protection (arrived 9:50 a.m.)
John Eskilson, Public Member (arrived at 9:49 a.m.)
Curtis Fisher, Governor's Office
David Fisher, Public Member
Monique Purcell, Designee for Secretary Charles Kuperus, Department of Agriculture
Peter Lazaropoulos, Public Member
Brent Barnes, Designee for Commissioner John Lettiere, Department of Transportation
Marge DellaVecchia, Designee for Commissioner Susan Bass Levin, Department of Community Affairs (arrived at 10:05 a.m.)
Daniel Levine, Designee for State Treasurer John E. McCormac, Department of Treasury
George Pruitt, Public Member
John Cuifo, Representative for Acting Secretary Virginia Bauer, Commerce & Economic Growth Commission
Timothy Touhey, Chairman and Public Member

Not Present

Marilyn Lennon, Public Member

Edward McKenna, Jr., Public Member

Others Present (See Attachment A)

PLEDGE OF ALLEGIANCE

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

APPROVAL OF MINUTES

Chairman Touhey asked for a roll call vote of the minutes of the July 21, 2004 meeting, George Pruitt moved the minutes and David Fisher seconded the motion. Ayes: (10) Michele Byers, John Eskilson, Curtis Fisher, David Fisher, Monique Purcell, Peter Lazaropoulos, Brent Barnes, Daniel Levine, George Pruitt, Timothy Touhey. Nays: (0). Abstains: (0).

CHAIRMAN'S COMMENTS, Timothy Touhey

Chairman Touhey noted that Adam Zellner would update the Commission on the Cross-acceptance process and the Plan Endorsement Process.

EXECUTIVE DIRECTOR REPORT, Adam Zellner, Director

Adam Zellner reported that the office was in the process of revamping and rewriting a lot of what the office has been doing in the past two years including preparing the Office's annual report. The Office has wrapped up the center process and staff will be giving an update on the towns coming in for Plan Endorsement. In the next year, the Office will continue to work with the State agencies on bringing more of the rules, regulations and benefits in line with the State Plan in addition to rewriting the State Plan and its targets and indicators along with other documents that go with the Plan to make it more usable and user friendly.

Maura McManimon reported the office was waiting for the counties to submit their Cross-acceptance reports. At the counties request, the deadline line was extended.

COMMITTEE REPORTS

Plan Implementation Committee, Michele Byers, Chair

Michele Byers introduced Resolution 2004-10 Memorandum of Understanding Between and By the New Jersey State Planning Commission and the Council on Affordable Housing. Maura McManimon gave a brief overview of the resolution indicating that the first time the resolution was on the Commission's agenda that it did not pass therefore, it was brought back for another vote.

Ms. Byers moved the resolution and it was seconded by John Eskilson.

Public Comments on Resolution 2004-10 were received from the following individuals:

Paul Chrystie, Executive Director of the Coalition for Affordable Housing and the Environment, Mr. Chrystie pointed out that the need for affordable housing in New Jersey is roughly about 650,000 households and that the proposed COAH rules will produce between 10 and 15,000 units. Secondly, going through the two resolutions, the first whereas on the top of page 2 of resolution 11, suggests not acting there because COAH hasn't adopted their third round rules and it would be inappropriate to adopt the resolution on those rules until COAH has adopted the rules, yet that is exactly what resolution 10 proposes. He also questioned whether the

Commission was going to enter into a memorandum of understanding, when it is known that it will not meeting the goals of the current State Plan. A lengthy discussion ensued regarding these issues.

Mr. Fisher proposed that two changes be made to the resolution one that indicates the executive director must report back to the Commission prior to executing the MOU and an amendment to number five on page 4 of the MOU regarding municipal growth projections. He also noted on a procedural issue that there was a petition asking that we require COAH certification with initial plan endorsement and a recommendation that we do not take action, he felt it might be appropriate to deal with the petition before voting on the MOU.

Dianne Brake, Regional Planning Partnership, Ms. Brake stated that there is currently an MOU in the place between the Commission and COAH and that if the MOU is not passed today there is still one in effect. She also stated that the State Planning Commission should not delete the target related to affordable housing that is proposed for deletion in the preliminary State Plan.

Candy Ashmun, Environmental consultant to nonprofit organizations on State Plan issues, Ms. Ashmun commented on Page three of the MOU noting that fast track has shifted the burden of proof from the applicant to the municipality in terms of where growth areas are. The fast track law, this MOU, and when the COAH is deciding where growth should go and where housing should go, they're talking about all of planning area two, but the Plan says center based development in planning area two. She suggested that either the number be stricken or that it read planning areas one and centers. A lengthy discussion ensued regarding the suggested change.

Eric Snyder, Sussex County Planning Department stated that the resolution should be adopted and that it has been a long time coming.

Mike Cerra on behalf of the State League of Municipalities, Mr. Cerra noted that it has been a complaint of local government and municipalities for years was a lack of integration of the State Plan policies at the State level and that we're not there yet but credit is due to the Commission and Chairman for moving in the right direction. He questioned how would the MOU migrate with the new COAH regulations?

Mr. Harrison responded that it has been established that Mr. Zellner would come back to the Commission with a report as to whether the rules that are adopted by COAH are consistent with the language in the Memorandum of Understanding.

Ms. Byers amended her motion to move the resolution with two amendments. One, that Mr. Zellner would be required to submit his consistency report either way and have permission to take action. The other clarification was made that the first motion had been amended and seconded to reflect that a change in the resolution to add a sentence at the end of the "Be it further resolved" that will in effect read that prior to signing the MOU the executive director shall report to the State Planning Commission on his findings as to the consistency of the adopted rules to the MOU. Then three changes to the MOU. In item three adding the consistent with the State Plan and item number five the last sentence growth projection for each municipalities shall be published in the Commission's adopted plan as "plan projections" and that a "be it further agreed that that either party can withdraw from the MOU with 60 days notice."

A motion was made to table Resolution 2004-10 and seconded by Mr. Eskilson in order to discuss Resolution No. 2004-11 Approval of Non-action on Petition for Rule Making from the Coalition for Affordable Housing and the Environment prior to voting on Resolution 2004-10. A voice call was taken and all were in favor.

Ms. Byers moved Resolution 2004-11 Approving Non-action on the Petition for Rule Making from the Coalition for Affordable Housing and the Environment. Chairman Touhey seconded the motion.

Public comments were received from the following individuals:

Paul Chrystie, Council on Affordable Housing and the Environment, Mr. Chrystie noted that what the petition is asking is that at the bare minimum for a town to get initial plan endorsement and whatever benefits, a town should have met its constitutional obligation and provided for affordable housing. He further noted that the resolution had two factual inaccuracies—on page two, the second whereas the proposed COAH rule give municipalities one year from the effective date of the rules to apply for certification. The municipalities can come in at anytime. There are a series of over 100 municipalities that had extended certifications that have to come in within one year of the rules, but the other 460 municipalities are on their own time frame. The third whereas requiring that municipalities secure COAH certification in order to obtain plan endorsement will delay their ability to do so is also inaccurate.

Mike Cerra representing the State League of Municipalities, Mr. Cerra noted that the League supports to the staff's recommendation for a number reason, which were laid out at the PIC meeting. He further noted that the intent of State Planning Act, Fair Housing Act was that this be a partnership and he feels that the Commission is heading in the right direction.

A lengthy discussion ensued regarding sub certification as part of initial plan endorsement.

Chairman Touhey asked for a roll call vote on Resolution 2004-11. (11) Michele Byers, Joanna Dunn Samson, John Eskilson, Curtis Fisher, Monique Purcell, Peter Lazaropoulos, Brent Barnes, Marge DellaVecchia, Daniel Levine, George Pruitt, Timothy Touhey. Nays: (1) David Fisher. Abstains: (0).

Resolution No. 2004-10 was placed back on the table. Clarification was made that the first motion had been amended and seconded to reflect that a change in the resolution to add a sentence at the end of the "Be it further resolved" that will in effect read that prior to signing the MOU the executive director shall report to the State Planning Commission on his findings as to the consistency of the adopted rules to the MOU. Then three changes to the MOU. In item three adding the consistent with the State Plan and item number five the last sentence growth projection for each municipalities shall be published in the Commission's adopted plan as "plan projections" and that a "be it further agreed that that either party can withdraw from the MOU with 60 days notice."

Chairman Touhey asked for a roll call vote on Resolution 2004-10. (12) Michele Byers, Joanna Dunn Samson, John Eskilson, Curtis Fisher, David Fisher, Monique Purcell, Peter Lazaropoulos, Brent Barnes, Marge DellaVecchia, Daniel Levine, George Pruitt, Timothy Touhey. Nays: (0). Abstains: (0).

Public comments were received from the following on issues not related to the Resolutions presented.

Paul Chrystie, commented on the nominations to replace Chairman Touhey and David Fisher.

Jeff Tittel asked about the status of monitoring the centers, particularly, the Wanaque center and the complaint that was filed by a group of citizens that seems not to have been resolved. He further stressed that the Commission needs to look at the centers and any violations there may be with the PIA.

Mr. Zellner responded that the office was doing monitoring as part of Cross-acceptance and talking to the counties about their current center designations and what is happening on the ground. He mentioned that the office is producing an annual report and hoped it would be completed in the next 60 days. In response to the Wanaque complaint, Mr. Zellner noted that it was still on file and the Commission has taken no action, but it is being looked at as part of the Cross-acceptance process.

After discussion among the Commission members and Mr. Tittel, Chairman Touhey noted that there would be an update on the status of the complaint at the next Plan Implementation Committee meeting.

Mike Cerra representing the State League of Municipalities thanked Chairman Touhey and Mr. Fisher for their work on the Commission.

Dianne Brake, Regional Planning Partnership also commented on the violations of center agreements and noted that the Commission has the power to de-designate a center.

Don Kirchhoffer, New Jersey Conservation Foundation asked for clarification on the Cross-acceptance reports from the counties, which seems to be an important next step. The work schedules say, they will be mailed, made available to the public, and that at least one public meeting will be held on the draft reports.

Maura McManimon responded that the public meeting requirement is the responsibility of the county and it is not a State Planning Commission meeting. She noted that the time line is a little different than the schedule at this point, because there was an extension granted and a preliminary draft is due to at the end of November with the final draft being done at the end of December and those reports would be put online and made available to the public.

Mr. Kirchhoffer and Tony O'Donnell from ANEC stated that they had difficulty accessing the OSG website. It was stated that this issue would be addressed.

Terry Tallon, resident Mansfield Township, Burlington County noted that she had many issues with what is going on in Mansfield and that she has started taking part in the Cross-acceptance process and will be getting involved with Plan Endorsement.

COMMISSIONER REPORTS

MICHELE BYERS, PUBLIC MEMBER

Ms. Byers asked for status of where things stood with Cross-acceptance reports in terms of the next Plan Implementation Committee meeting and whether reports would be available for that meeting. Maura McManimon responded that it would depend if any of the counties had chosen to submit their reports prior to the November 30th deadline for a preliminary draft.

Ms. Byers indicated that an update on the Cross-acceptance process and the role of the Plan Implementation Committee would be discussed at the next Committee meeting.

Danielle Stevens gave an update on the Plan Endorsement process. She indicated that the towns that have come in for pre-petition meetings have been listed on the website and that in the coming months two dates a month have been set aside for pre-petition meetings.

Mr. Zellner provided an update on the fast track legislation indicating that the three departments are in the process of working the rules that are due for submission November 6th and that no other actions have been taken that he was aware of.

MARGE DELLA VECCHIA, DEPARTMENT OF COMMUNITY AFFAIRS

Ms. DellaVecchia reported that the Governor's Housing Conference was extremely successful and thanked everyone who participated. She also noted the department also hosted a very successful women's conference.

Curtis Fisher, Governor's Office

Mr. Fisher on behalf of the Governor's office thanked Chairman Touhey and David Fisher for their work and dedication to the Commission.

DAVID FISHER, PUBLIC MEMBER

Mr. Fisher thanked his fellow Commissioners and noted that the last five years had been a tremendous experience. He also stated his concern about Cross-acceptance and how well it is moving forward in light of the actions taken with COAH. He stressed the importance of working with the counties and making certain that growth projections are an important and crucial component of how the counties look at the growth and job opportunities within their region and disaggregated down to the municipal level so the plans can effectively be implemented.

MONIQUE PURCELL, DEPARTMENT OF AGRICULTURE

Ms. Purcell thanked both Chairman Touhey and David Fisher for their work. She reported that the department has expanded the Jersey Fresh Program by including Jersey grown horticultural products and Jersey bred that is used to identify horses and other livestock raised in New Jersey. A state/federal program that encourages farmers to buffer lands adjacent to streams and is paid to maintain program is up and available. Lastly, Mr. Purcell noted, that the Fall kicks off a busy agri-tourism season in New Jersey, New Jersey is home to 60 community farmers markets, 460 farm markets, 125 pick-your-owns and 189 wineries.

PETER LAZARPOULUS, PUBLIC MEMBER

Mr. Lazaropoulos also thanked Chairman Touhey and David Fisher for their service.

John Cuifo, Commerce Commission

Mr. Cuifo reported that on November 12th the Commerce Commission would be hosting the third annual Economic Development Conference and has noted that the Commerce Commission is actively involved with smart growth issues and will continue to give their support.

TIM TOUHEY, CHAIRMAN

Chairman Touhey stated that he would be at the December meeting. He also wanted the affordable housing community to know that the issue of affordable housing is something that he feels very strong about and works every day to advance.

JOHN ESKILSON, PUBLIC MEMBER

Mr. Eskilson thanked Chairman Touhey and David Fisher for the work on the Commission and that as a Commission we owe them a lot.

Adam Zellner welcomed John Cuifo to the meeting and introduced two new staff members Alan Miller and Jung Kim. Mr. Zellner also noted that the office would be losing area planner Megan Lang who would be going to Australia to do planning work.

With no further comments from the Commission or the public, Chairman Touhey adjourned the meeting at 12:00 p.m.

Respectfully submitted,

Adam Zellner
Secretary and Executive Director

Dated: November 22, 2004