

NEW JERSEY STATE TDR BANK BOARD

Health/Agriculture Building
(Auditorium)
Market & Warren Streets
Trenton, NJ 08625

November 22, 2010

The meeting was called to order at 10:05 a.m. by Executive Director Susan Craft. In compliance with the "Open Public Meetings Notice", the following statement was read:

"Pursuant to N.J.S.A. 10:4-6 et seq., adequate public notice of this meeting has been provided by giving written notice of the time, date, location and, to the extent known, the agenda. At least 48 hours in advance, this notice has been posted on the public announcement board, third floor, Health/Agriculture Building, John Fitch Plaza, Trenton, NJ, mailed and/or faxed to the Newark Star Ledger, The Times of Trenton, The Camden Courier Post, and filed with the Office of the Secretary of State.

Roll call indicated the following:

Members Present

Douglas Fisher, Chairman (Secretary, Dept. of Agriculture)
John DiYenno (rep. Banking and Insurance Commissioner Thomas B. Considine)
Joy Farber, Esq. (rep. Edward J. McKenna, Jr., State Planning Commission)
James Fruscione (rep. State Treasurer Andrew P. Sidamon-Erstoff)
James Lewis (rep. NJDOT Commissioner James S. Simpson)
Cecile Murphy (rep. DEP Commissioner Robert Martin)
James Requa (rep. DCA Commissioner Lori Grifa)
Sandy Batty (rep. ANJEC Board off Trustees President Chris Allyn)
Scott Ellis, President, State Board of Agriculture

Susan E. Craft, Executive Director, State Agriculture Development Committee (SADC) & New Jersey State Transfer of Development Rights Bank
Jason Stypinski, Deputy Attorney General

Others in Attendance: Timothy Brill, Steven Bruder, Sandy Giambrone, Brian D. Smith, Esq., SADC Staff; Jeff LeJava, Tom Borden, Eileen Swan, New Jersey Highlands Council; Chris Sturm, New Jersey Future; Courtney Mercer, Mercer Consulting

CHAIRPERSON'S REPORT:

Chairman Fisher introduced himself to the members of the Transfer of Development Rights (TDR) Bank Board and asked that members introduce themselves since it has been some time since the last board meeting.

Chairman Fisher stated that he would not be giving a report of the Chair as this is his first meeting with the Board.

EXECUTIVE DIRECTOR'S REPORT:

Ms. Craft presented her report to the Board as follows:

- Reconvening of the TDR Bank Board

Ms. Craft stated that the goal of this board is to meet quarterly to keep everyone apprised as to that is happening with TDR projects throughout the state and to take action as needed. She offered to work with new members directly to familiarize them with the functions of the TDR Bank Board. The composition of the Bank Board is ten members, nine of which are ex-officio members from various agencies. There is one public member of this board who must be actively engaged in farming. That position is vacant at the present time. Ms. Craft advised the board that all ten members vote but six members are needed for a quorum and six affirmative votes are required to pass any motion or action.

- Background on Ms. Craft

Ms. Craft advised the Board that she has been the Executive Director of the State Agriculture Development Committee (SADC) and the Transfer of Development Rights Bank for approximately six years. The SADC is involved with preserving farmland, monitoring those easements and enforcing those easements on almost 200,000 acres of land. The SADC also administers the State's Right to Farm programs. Within the last year the SADC has also been focused on developing rules for solar energy development on both preserved and unreserved farmland.

Ms. Craft stated that prior to coming to the SADC she worked with the Burlington County Agriculture Development Board. Her experience has provided an appreciation that not all of the lands in need of preservation are able to be purchased through either the NJ Green Acres Program or the Farmland Preservation Program. Other tools such as TDR are needed to get this accomplished.

Ms. Craft indicated that the reconvening of this board is timely because of a recent effort by the planning community to help TDR play a more prominent role in land conservation and economic development than it has in the past. Chris Sturm from NJ Future is here today to provide the Board information on this effort.

- New Administration

Ms. Craft stated that a new Administration is in place and is interested in promoting both economic and environmental goals. She felt that TDR could be used as a tool to advance this agenda.

MINUTES

Ms. Craft stated that as most members were not present at the last meeting (July 8, 2008) counsel has advised that the minutes be used for purposes of constructing the record but that they not be formally approved by the TDR Bank Board. Therefore no official action on these minutes will be taken.

PUBLIC COMMENT

None

NEW BUSINESS

A. Annual Notice of Meetings

Ms. Craft advised the members of the tentative quarterly meeting dates as follows:

Monday, March 7, 2011

Monday, June 13, 2011

Monday, September 19, 2011

Monday, December 5, 2011

The meetings will be held at the Department of Agriculture in the first Floor Auditorium. She asked for a motion to approve the tentative meeting dates.

It was moved by Mr. Requa and seconded by Ms. Farber to accept the tentative quarterly meeting dates for the Transfer of Development Rights Bank Board as presented and discussed. The motion was unanimously approved.

B. Fiscal Year 2011 Proposed Budget

Ms. Craft referred the Board to the TDR Administrative Budget Summary which shows FY 2010 expenditures and the FY2011 proposed budget plan. Staff is seeking retroactive approval of the FY 2010 plan along with the current year Administrative Budget. Ms. Craft stated that the funding for the TDR Bank Board's budget comes from a 1993 bond act passed for farmland preservation and the Green Acres Program. \$20 million of that bond authorization was set up for the TDR Bank Board. As the Board shares staff with the SADC, only administrative costs specific to the Board are deducted from Bank funds. Staff is requesting approval of the budget plan as presented and discussed.

It was moved by Ms. Farber and seconded by Mr. Lewis to approve the Transfer of Development Rights (TDR) Administrative Budget Plan as presented and discussed. The motion was unanimously approved. (A copy of the Administrative Budget Plan is attached to and is a part of these minutes.)

C. Planning Assistance Grant Update

SADC staff Steven Bruder referred the Board to the Planning Assistance Grant Application Summary sheet showing those municipalities having received grants from the Board as follows:

Completed Projects

Chesterfield Township, Burlington County

Lumberton Township, Burlington County

Woolwich Township, Gloucester County

Active Projects

Berkeley Township, Ocean County

Frankford Township, Sussex County

Hillsborough Township, Somerset County

Hopewell Township, Cumberland County

Mannington Township, Salem County

Ocean Township, Ocean County

Mansfield Township, Burlington County

North Hanover Township, Burlington County

Withdrawn Projects

Fanwood Borough, Union County

Montgomery Township, Somerset County

Oxford Township, Warren County

Prospect Park Borough, Passaic County

Mr. Bruder provided a summary and status update of these programs. No action is needed by the Board at this time.

D. Planning Assistance Grant Applications

1. Jersey City, Hudson County

Mr. Bruder referred the Board to a resolution for approval of a planning assistance grant to the City of Jersey City, Hudson County. Courtney Mercer, planning consultant to Jersey City, addressed the Board in support of the Jersey City planning assistance grant request and provided an overview of the proposed TDR program.

The Jersey City TDR project includes several distinct sending and receiving concepts. First, a “self-contained” TDR program will be created for the Jersey Avenue neighborhood of the City. Sending and receiving areas will be confined to the neighborhood boundaries and transfers will only occur within the specific neighborhoods. The City also proposes to define critical resources, such as historic landmarks, environmentally sensitive lands and open space, which will become scattered site sending areas. The development potential from these areas will be sent to designated receiving areas where zoning currently represents an underutilization of the land.

Jersey Avenue & Holland Tunnel

The Jersey Avenue/Holland Tunnel neighborhood has an opportunity for large-scale redevelopment. The TDR concept in this area would allow for an equalization of value by transferring development potential from future open space and recreation areas to those areas contemplated for intense development. There is also potential within this neighborhood to use TDR to encourage adaptive reuse and historic preservation. The neighborhood currently includes a mix of warehouse, light industrial, residential, commercial and civic uses.

Scattered Sites Sending Area

Through the public planning process, the City will define criteria for designation of critical resources that enhance or have the potential to enhance quality of life for the citizens of the City. Examples of critical resources that have sending area potential include the Power House Arts District, the Loews Theater, Appletree House, and other historic landmarks, as well as reservoir lands and abandoned railroad right-of-ways with open space and recreational potential.

Paulus Hook & Gregory Park Neighborhood Receiving Area

The Paulus Hook and Gregory Park neighborhoods were developed under Urban Renewal redevelopment plans that severely limited building coverage. At the time, this had a potentially beneficial purpose, but has translated in modern times to seas of surface parking and a broken street façade. These areas now represent a tremendous opportunity to receive transferred development potential from the scattered site sending area. This infill development will enhance the neighborhoods’ design and sense of place, and given the recent boom of development in the downtown area, is certainly in demand. These neighborhoods are largely residential with some commercial and office opportunity.

Morgan Grove Marin (MGM) Receiving Area

The MGM area is an underutilized area in downtown Jersey City, just blocks away from the Grove Street PATH station. It currently consists of vacant lots, a lumber yard, a garage, surface parking and a few residential buildings. It is currently under a redevelopment plan that allows a maximum of 10 story buildings. TDR could be used to increase the height and density potential of the properties.

Other Receiving Areas

Depending on the development potential from the scattered site sending area, other receiving areas may be included in the City's TDR program. Underutilized properties currently zoned for industrial and manufacturing uses represent possible receiving area opportunities.

Ms. Mercer stated that these preliminary project areas have been reviewed by the stakeholders and public however some of the proposed areas may be amended based on their continued feedback.

Mr. Lewis questioned the designation of a municipally owned park as a sending area. Ms. Craft commented that Mr. Lewis may be worried about publicly owned land having credits competing with privately owned land. Ms. Mercer stated that nothing in the State TDR Act precludes this and that it is an issue they need to further address to ensure an adequate market for both private and public credits is established.

Mr. Ellis asked why Jersey City couldn't just rezone "receiving" areas. Ms. Craft stated that they could zone all of these areas for higher development however without TDR there is no distribution of value that is gained by those higher densities. There would be no funding for the properties they are trying to conserve, redevelop or rehabilitate.

Mr. Bruder stated that staff recommendation is to grant approval of the planning assistance grant in the amount of \$40,000 to assist in the completion of work projects required to establish a Transfer of Development Rights Program.

Ms. Farber stated that the Office of Smart Growth also provided a \$90,000.00 planning grant to Jersey City for this work.

It was moved by Ms. Murphy and seconded by Mr. Requa to approve Resolution # FY2011R11(1) granting a Planning Assistance Grant to the City of Jersey City, Hudson County, in the amount of \$40,000.00 to assist in the completion of work projects required to establish a Transfer of Development Rights Program, as presented and discussed and subject to any conditions of said Resolution.

Mr. Ellis asked if the Board's decision is subject to the Governor's review. Ms. Craft stated that all of the TDR Bank Board's official actions are subject to review by the Governor's Office.

The motion was approved. (Mr. Ellis opposed.) (A copy of Resolution FY2011R11(1) is attached to and is a part of these minutes.)

Note: Mr. Fruscione left the meeting at this point.

E. New Jersey TDR Statewide Policy Task Force

Chris Sturm from New Jersey Future addressed the Board stating that her office does planning research, policy development and advocacy. New Jersey Future believes that TDR is an important tool for local governments and regions in New Jersey. TDR has not proven to be easy to implement however. New Jersey Future was concerned and received funding from the William Penn Foundation to help address this issue. A task force of diverse membership was

created, with great participation from the SADC, the Office of Smart Growth, ANJEC, Ms. Mercer, the Highlands Council, developers and other planners and municipal consultants. The Task Force convened last December and met through July. Task Force recommendations are contained in a report entitled "Realizing the Promise: Transfer of Development Rights in New Jersey – A Report of the New Jersey TDR Statewide Policy Task Force" which was provided to the Board.

Ms. Sturm reviewed the specifics and recommendations of the report with the Board. She stated that the Task Force is discussing how to prioritize the recommendations and pursue implementation. She hopes the TDR Bank Board will be interested in being a champion for TDR and for the recommendations that pertain to each person's respective agencies and to work with the Governor's Office. Ms. Sturm felt it was critical for the Board to help those towns that are invested in TDR develop and implement their plans.

Ms. Sturm stated that there is much discussion about how the Administration will reinvigorate State Planning.

F. Highlands TDR Update

Eileen Swan, Executive Director of the New Jersey Highlands Council addressed the Board. Also in attendance was Tom Borden, Deputy Executive Director of the New Jersey Highlands Council and Jeff LeJava, Staff Attorney who also administrates the Highlands TDR Program.

Ms. Swan and Mr. LeJava provided the Board with an update on the Highlands TDR activity since the Board's last meeting.

First, on September 5, 2008, Governor Corzine signed Executive Order #114. This order made \$10 million from the State TDR Bank's original \$20 million allocation available to the Highlands Development Credit Bank (HDC). These funds were reallocated in September of 2009.

In the fall of 2009, the Highlands Council took major steps by adopting operating procedures for the HDC Bank as well as launching a web-based application called the Highlands Development Credit Estimator. Using this tool, owners of a residentially zoned property in the Preservation Area will be able to view an estimate of their HDC allocations should they choose to enroll their properties in the regional TDR program.

In May of 2010, the HDC Bank authorized its first HDC purchase offers to Highlands Preservation Area property owners experiencing financial hardship. The HDC Bank approved five applications for a total of \$1,724,000. A second round of the Initial Purchase Program was also announced with applications scheduled for consideration at the December 2, 2010 HDC Bank meeting.

There has also been recent legislative action enabling any municipality in the State to establish a voluntary TDR receiving zone for participation in the Highlands TDR Program. The bill, A-602/S-80, was signed by Governor Christie on May 5, 2010.

Ms. Swan stated that all of the supporting and technical information provided is on the Highlands website. The Highlands TDR Bank Board and Council meetings are also recorded to be listened to online.

Ms. Craft stated that staff did not expect to have the meeting run as late as it did. She suggested tabling the Pinelands Development Credit Program Update (Agenda Item "G") and the Salem County TDR Task Force (Agenda Item "H") until the next meeting of the Board.

It was moved by Ms. Farber and seconded by Mr. Ellis to table the Pinelands Development Credit Program Update (Agenda Item "G") and the Salem County TDR Task Force discussion (Agenda Item "H") until the next meeting of the Board. The motion was approved. (Mr. Fruscione was absent for this vote.)

I. Recognition of John Stokes

Ms. Craft asked that the Board recognize John Stokes for his many years of service as the Director of the New Jersey Pinelands Commission and his contribution to the Pinelands TDR program which is recognized nationally as one of the top TDR efforts in the nation.

It was moved by Ms. Batty and seconded by Mr. Requa to approve the proclamation for John C. Stokes, recognizing his many years of service to the State of New Jersey as Assistant Director and then Executive Director of the New Jersey Pinelands Commission, and as one of the chief authors of the original Pinelands Comprehensive Management Plan. The motion was approved. (Mr. Fruscione was absent for this vote.) (A copy of the Proclamation is attached to and is a part of these minutes.)

Ms. Farber stated that the Real Estate Market Analysis Rules will soon expire and that the Department of Community Affairs is proposing that they be readopted without change giving 6 additional months to make substantive changes to the rule. It will be important for the Board to participate with her office in the stakeholder meetings on rule recommendations.

TIME AND PLACE OF NEXT MEETING: Monday, March 7, 2011, 10:00 a.m. at the Department of Agriculture, Health/Agriculture Building, 1st Floor Auditorium.

It was moved by Ms. Murphy and seconded by Mr. Requa to adjourn the meeting at 1:00 p.m. The motion was approved. (Mr. Fruscione was absent for this vote.)

Respectively Submitted,



Susan E. Payne, Executive Director
State Agriculture Development Committee