

**NEW JERSEY STATE TDR BANK BOARD**

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

**March 7, 2011**

The meeting was called to order at 10:05 a.m. by Executive Director Susan E. Payne. 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)  
Guillermo Vivas (rep. Banking and Insurance Commissioner Thomas B. Considine) (arrived at 10:06 am)  
Joy Farber, Esq. (rep. Edward J. McKenna, Jr., State Planning Commission)  
Chris Jeter (rep. State Treasurer Andrew P. Sidamon-Erstoff)  
James Lewis (rep. NJDOT Commissioner James S. Simpson)  
Curt Gellerman (rep. DEP Commissioner Robert Martin)  
James Requa (rep. DCA Commissioner Lori Grifa)  
Scott Ellis, President, State Board of Agriculture

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

**Members Absent**

Sandy Batty (rep. ANJEC Board off Trustees President Chris Allyn)

**Others in Attendance:** Timothy Brill, Steven Bruder, Sandy Giambrone, SADC Staff; Dan Kennedy, Office of Planning Advocacy; Chris Strum, New Jersey Future; James O. Atkins, J. Olivers Security; and Giuseppe "Joe" Chila and Anthony Zappasodi, Woolwich Township.

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## **CHAIRPERSON'S REPORT:**

Chairman Fisher made a brief statement regarding the importance of continued support for TDR in New Jersey and the role of state government in this task.

## **EXECUTIVE DIRECTOR'S REPORT:**

Ms. Payne introduced Curt Gellerman, the NJDEP representative. Mr. Gellerman is the Green Acres program Team Leader for land acquisition and project management in southern New Jersey.

Ms. Payne also introduced Chris Jeter representing the State Treasurer. Mr. Jeter is the Assistant State Treasurer with oversight of the Division of Taxation Revenue and the Lottery.

Ms. Payne indicated her desire to help members of the Board develop an understanding of TDRs potential in the state and obstacles to its implementation so state government can support its development. The Governor's intention to minimize red tape and promote economic development and fiscally responsible conservation planning can be accomplished through TDR. She noted that the Office of Smart Growth, now the Office of Planning Advocacy, and the State Planning Commission are major players in this task.

Ms. Payne introduced Dan Kennedy, Deputy Executive Director of the Office of Planning Advocacy.

Mr. Kennedy indicated that the Office of Planning Advocacy, under the Department of State, is working on a cabinet level process the Administration is calling the State Strategic Planning Process Project. A steering committee, with members from the Governor's Office, Office of Planning Advocacy, and NJDEP, will direct the process with an advisory committee of cabinet members with a stake in land use invited to provide input.

## **MINUTES:**

Chairman Fisher requested a motion for approval of the minutes from the November 22, 2010 meeting. It was moved by Joy Farber and seconded by James Lewis. The motion was unanimously approved.

## **PUBLIC COMMENT**

None at this time.

## **NEW BUSINESS**

### **A. Planning Assistance Grant Agreement Extensions**

Ms. Payne requested this agenda item be postponed until later in the meeting.

### **B. TDR Implementation Hurdle Discussion**

The discussion on Hopewell Township, Cumberland County was postponed until a subsequent meeting because local officials were unable to attend.

## Woolwich Township

Director Payne introduced Mayor Joe Chila of Woolwich Township, Gloucester County.

Mayor Chila indicated that under his authority the Township participated in the Plan Endorsement process as one of the TDR pilot projects. Woolwich Township is the only township to have adopted a TDR ordinance under the State TDR Act. Mayor Chila introduced Mr. Anthony Zapposodi, Esq., the Township's Director of Community Development.

Mr. Bruder described the Woolwich TDR program as a mandatory program involving over 4,100 acres of primarily agricultural sending area and 887 acres of receiving area. There are two planned receiving areas. One is the 762 acre U.S. 322 Corridor Receiving Zone which is part of the Township's 1,696 acre Woolwich Regional Center. The second is the Auburn Road Village Receiving Area adjacent to Woolwich's Weatherby development.

If fully developed, the U.S. 322 Corridor Receiving Zone would include 100 single family homes, 1000 twin units, 500 apartments/condos and 1600 townhomes in addition to 575,000 SF of first floor retail and 2.6 million additional SF of commercial space. The estimated commercial construction cost of the receiving area portion of the Woolwich Regional Center is \$358.9 million. The Auburn Road receiving area would include: 130 single family units; 162 twin units; 210 townhomes and 60,000 – 70,000 SF of commercial space. The estimated commercial construction cost of this receiving area is \$5.9 million. When non-TDR portions of the Woolwich Regional Center are included in the build out projection it is estimated that a total of an additional 7,000,000 sq. ft. of commercial, representing approximately 5,155 new jobs, is possible in Woolwich. In all, the cost of construction of the commercial portions of this project are estimated at \$666 million.

Woolwich received Plan Endorsement in April of 2008 and passed their municipal TDR ordinance in October of that year. Aside from the economic downturn, sewer service provision has been the primary reason TDR is not yet being implemented. It is anticipated that 1.79 MGD in wastewater flow will be generated by the Woolwich Regional Center of which 1.3 MGD is needed for the receiving area. The Auburn Road Receiving Area is anticipated to generate 0.151 MGD. At the time Woolwich was given Plan Endorsement sewer service was somewhat uncertain but it was anticipated that it would be provided partially through developers agreements with the Logan Township MUA. These discussions, as well as discussions with the Gloucester County MUA, have not materialized. Woolwich is certainly part of negotiations involving the capacity available at the DuPont plant in Carneys Point, Salem County but this solution is a number of years off.

If preserved through the traditional farmland preservation program the estimated easement cost to preserve the 4,100 sending areas would be more than \$75,000,000.

Mayor Chila indicated that a TDR Bank could help facilitate the transfer of development credits. He stated that while there has been limited discussion between developers and landowners due to the economic recession, farmland owners have the biggest stake in the TDR proposal. Mayor Chila also mentioned that the Township sold both the water and wastewater franchise and the service providers need to clearly see that demand is real before they will invest in infrastructure.

## **New Jersey TDR Statewide Policy Task Force**

Ms. Payne introduced Chris Sturm from New Jersey Future, a nonprofit organization that promotes smart growth and state planning to foster stronger communities, the preservation of land and address mobility issues in New Jersey. At the November 2010 meeting, Ms. Sturm briefed the Board on the findings of the N.J. TDR Statewide Policy Task Force; a group made up of environmentalists, developers, local officials and SADC/State TDR Bank, NJDEP and NJDOT staff. She is here to further discuss the obstacles TDR programs have faced, recommendations of the report and the role of the state agencies in TDR implementation especially with limited funding for the purchase of development rights.

Ms. Sturm stated that TDR is at a turning point in New Jersey and that reforms are necessary to facilitate TDR implementation.

Ms. Sturm described a survey of the towns involved in TDR planning which asked them about the barriers to implementation. She indicated that infrastructure availability was first on the list. Another was the difficulty of dealing with land use regulations that change midway through the TDR planning process. There are numerous examples of towns proceeding as instructed by the State only to have state agencies change the conditions for their approval or not follow through due to a regulatory change. As a result towns have been discouraged from taking on TDR or other innovative planning techniques and have instead relied on large lot zoning.

Ms. Sturm referenced Chesterfield Township as an example of proper planning and state agency coordination resulting in preservation and a desirable growth pattern. State agency support in the form of planning grants and infrastructure provision (water, wastewater, roads, parks, etc.) is necessary to make this happen.

Ms. Sturm's discussed non-continuous clustering, another tool discussed and recommended by the N.J. TDR Statewide Policy Task Force. Non-continuous clustering is the ability to transfer density between non-contiguous parcels, typically between parcels in common ownership and on a scale smaller than typical TDR programs.

Ms. Sturm indicated her belief that the TDR Bank Board should play a strong role in leading a coordinated partnership within state government and in ensuring follow through during plan development, project permitting and implementation.

Ms. Sturm noted several municipalities actively implementing TDR and they are:

1. Woolwich Township, Gloucester County
2. Berkeley Township, Ocean County
3. Hillsborough Township, Somerset County
4. Jersey City, Hudson County

Ms. Sturm stated that the most important thing that this Board can do is help these towns so they can serve as models for other municipalities. She also addressed the need to update the State TDR Act in accordance with the recommendations of the TDR Statewide Policy Task Force.

Mr. Requa asked whether Plan Endorsement is necessary in order to do TDR. Ms. Sturm stated that a town cannot succeed at TDR unless there is partnership with the State. She stated however that the current Plan Endorsement process is too onerous with not enough benefits for

municipalities. There does however need to be some formal relationship between the municipality and the State with feedback and commitment on both sides.

Ms. Payne noted that the State TDR Act was written with safeguards for landowner equity. There was a concern that towns would downzone in advance of TDR establishment and then never implement TDR as an equity protection mechanism. Plan Endorsement is a mechanism to ensure viable TDR programs that protect equity are created.

Ms. Payne at this point directed the board back to item A under New Business which follows:

**A. Planning Assistance Grant Agreement Extensions**

Ms. Payne presented to the Board the spreadsheet “New Jersey Transfer of Development Rights (TDR) Grant Funding Status – March 2011”. She explained that there are several Planning Assistance Grant municipalities whose grant agreements have, or are close to expiration and have submitted grant extension requests. The original agreements were a three year term. These municipalities include:

- Hopewell Township, Cumberland County
- Berkeley Township, Ocean County
- Frankford Township, Sussex County
- Mannington Township, Salem County
- Ocean Township, Ocean County
- Hillsborough Township, Somerset County

Ms. Payne requested approval of grant extensions until June 30, 2013 which would provide these municipalities with two additional years to work with the new administration. She noted that these municipalities have all received an initial \$20,000 allocation with the remaining \$20,000 of the grant in reserve until they submit their TDR ordinance to Office of Planning Advocacy for Plan Endorsement.

It was moved by Mr. Vivas and seconded by Mr. Requa to approve the grant extension. The motion was unanimously approved.

Ms. Payne provided a brief update on the status of State TDR Bank Board funding, indicating that there was roughly \$1 million available for PAG grants and \$9 million for TDR credit purchases at present.

**D. Salem County TDR Task Force Overview**

Mr. Brill provided the Board with an update on the status of the Salem County TDR Task Force, a three year planning study initiated to discuss a regional TDR alternative in Salem County. This initiative was facilitated by the Delaware Valley Regional Planning Commission with funding from the William Penn Foundation.

Mr. Brill referred the Board to the report “Assessing the Potential for a Regional Transfer of Development Rights Program in Salem County, N.J.” The report presents baseline information for the regional TDR discussion as well as the preliminary recommendations of the Task Force.

Mr. Brill stated that there was 74,000 acres of buildable land identified in Salem County's rural zoning districts in the ten towns that are predominately agricultural. This translates to an estimated build out of 11,000 dwelling units when the NJDEP's nitrate dilution standards are applied.

The report found that areas with potential to serve as receiving areas are primarily in the five municipalities along the Delaware River Corridor. Additional work, involving a more thorough real estate market and infrastructure availability analysis, is necessary to determine receiving area locations and viability.

Mr. Brill noted continued interest by municipal representatives in discussing the potential for TDR. Key components that the Task Force identified to make TDR possible include streamlining the TDR planning process, funding for planning and implementation and a regional tax sharing mechanism.

Mr. Brill stated that staff is currently reviewing the report. It will be discussed at an upcoming Salem County TDR Task Force meeting on March 17<sup>th</sup>, where this phase of the planning process will be wrapped up.

#### E. Rule Adoption

##### 1. State TDR Bank Board Rule (N.J.A.C. 2:77) Request for Extension

Mr. Bruder stated that the Board's regulations are set to expire on July 17<sup>th</sup> of this year. The request is to authorize staff to readopt the rule, without change, which would allow for a 5 year extension. If amendments to the State TDR Act, based on recommendations by the N.J. State TDR Task Force, are made an overhaul of the rule may be necessary prior to the next expiration date.

It was moved by Mr. Requa and seconded by Mr. Lewis to approve the State TDR Bank Board Rule (N.J.A.C. 2:77) request for extension as presented and discussed. The motion was unanimously approved.

Mr. Bruder directed the Board to a letter from Susan E. Payne dated March 2, 2011 to Joy Farber, Office of Planning Advocacy, regarding expiration of the Transfer of Development Rights Real Estate Market Analysis (REMA) Rules (N.J.A.C. 5:86). The letter acknowledges the Department of Community Affairs' intent to readopt N.J.A.C. 5:86 without change and discusses the Boards commitment to work with the Office of Smart Growth / Office of Planning Advocacy to implement recommendations from the N.J. State TDR Task Force related to the REMA.

Ms. Farber confirmed that the REMA rules are to expire on July 2, 2011 and that the intent is to readopt without change. She also commented on the eventual need to amend the regulation based on the Task Force recommendations.

Ms. Payne noted that one of the recommendations of the Task Force was to provide for a less intense REMA requirement for TDR programs that are truly voluntary ( i.e. not associated with landowner equity impacts for property owners who do not participate). The State TDR Act was written with much attention to protecting landowner equity and as such requires all programs to perform a full REMA.

**TIME AND PLACE OF NEXT MEETING:**

Monday, June 13, 2011, 10:00 a.m. at the Department of Agriculture, Health/Agriculture Building, 1<sup>st</sup> Floor Auditorium.

It was moved by Mr. Requa and seconded by Ms. Farber to adjourn the meeting at 12:21 p.m. The motion was approved.

Respectively Submitted,

A handwritten signature in black ink, appearing to read "Susan Payne", written in a cursive style.

Susan E. Payne  
Executive Director  
State Agriculture Development Committee