

INTERAGENCY COMMITTEE

STAFF REPORT FOR THE MEETING OF JUNE 9, 2005

Introduction

On June 9, 2005, the Interagency Committee held a meeting at the New Jersey Highlands Council office in Chester, New Jersey. Notice of the meeting was provided to the public on the Highlands Council's web site. Council members present at the meeting were: Lois Cuccinello; Janice Kovach; Ben Spinelli (via conference call); and Glenn Vetrano. Council staff members present were: Dante Di Pirro, Adam Zellner, Steve Balzano, Tom Borden, Kim Ball-Kaiser and Chris Danis. This was the first meeting of the Committee. There were four items on the agenda: Overview of Interagency Committee Role; Cross Acceptance, State Plan and Highlands Council; Council on Affordable Housing (COAH) and Highlands Council; and Highlands Funding and Agency Coordination. The meeting was called to order at 10 a.m. by Committee Chair Ms. Lois Cuccinello.

Overview of Interagency Committee Role

Adam Zellner stated the role of the Interagency Committee is to coordinate state agency actions affecting the Highlands. The Committee will coordinate with appropriate agencies regarding policy, rulemaking and funding/budget allocations. The Committee will need to establish protocols for coordination with state agency actions and as to how it will share and inform other Council committees. It will also need to identify thresholds for which the Council will review and approve decisions. The Committee with staff support will develop and adopt policies and procedures for adoption by Council. The purpose of today's meeting is to give an overview and several examples of how the Committee will be involved with state agencies in the development of the Regional Master Plan and in the long – term.

Cross Acceptance/State Plan and Highlands Council

Adam Zellner presented the State Plan map as related to the Highlands Region. The map exhibit served as an example of how the State Planning areas coordinate with the role of the Council. For example, the Board of Public Utilities (BPU) has adopted policy stating that utility upgrade funding is only available within PA-1, PA-2 and Designated Centers. Utility infrastructure costs outside of those areas are no longer eligible for funding or reimbursement by BPU. Another example is the Department of Transportation (DOT). The DOT prioritizes projects and road access based on whether or not PA-1, PA-2 and Designated Centers are involved. If a project is outside of these areas then it has a lower rank in prioritization. These are just two examples of how the State Plan areas are being

imbedded into agency policy and funding protocols. The role of this Committee will be to coordinate the Council's policy as well as identify potential conflicts.

The Council has oversight in the Preservation Areas and the State Plan has oversight in the Planning Area. A Memorandum of Agreement (MOA) between the Office of Smart Growth and the Council regarding Cross Acceptance negotiation and review is in the process of being developed. The staff met with the Office of Smart Growth several times over the last 2 months to discuss the details of the MOA. The draft MOA will be provided to the Committee for review and comment prior to moving to full Council for approval. The State Plan Implementation Committee and the Interagency Committee will work together during the negotiation phase of Cross Acceptance and State Plan Adoption.

Lois Cuccinello asked, "What does this Committee need to do to get ready?"

Adam Zellner replied that the staff would prepare a timeline for the Committee to review. The Committee will meet monthly on a regular basis. However, there may be a concentration of meetings at certain times based on schedule demands.

Lois Cuccinello asked, "What about the towns that have not gone through Cross Acceptance, what will they be required to do?"

Adam Zellner replied that they do not have to complete Cross Acceptance because they will come in under the Regional Master Plan. This Committee is charged with a seven county Cross Acceptance review. It is very important because many programs are weighted based on the State Plan.

COAH and Highlands Council

Adam Zellner gave an overview of the current understanding with COAH. The staff is continuing to work with COAH regarding how Round 1, 2 and 3 obligations will coordinate in the Highlands Regional Master Plan. Currently, outstanding Round 1 and Round 2 obligations within the Preservation Area towns are being reviewed by COAH. These outstanding obligations will be need to be met. The COAH Round 3 Growth Share obligations which are based on residential and non-residential build out will not take action until the Regional Master Plan is complete. The staff does not currently have all of the details worked out with COAH, discussions are ongoing.

Tom Borden indicated that one concern is that by statute all towns must file for COAH Round 3 by December 2005. The Highlands RMP will not be completed until June 2006. The risk is that if towns do not file by December 2005 they may lose their Substantive Certification status. The Council will be working with towns to assist them in meeting the December 2005 deliverable as best that it can prior to adoption of the RMP. The Council has indicated that if Planning Area towns opt-in to the RMP they will be provided legal protection against potential builders remedy suits. However, this type of suit may still be a possibility if towns are not protected. The Council is working with COAH to give these

towns a legal shield. The final mechanism has yet to be defined. It may be a written agreement between the town, the Council and COAH that affords them legal protection.

Lois Cuccinello asked, “Can COAH give the Highlands towns’ additional time to submit in light of that fact?”

Dante Dipirro responded that COAH is concerned about not meeting their legal requirements and an extension may or may not be permitted. However, this may be brought to court action to seek clarification regarding COAH waivers. The Council may need to prepare itself for such an alternative. Adam, Tom and Dante indicated that all options are on the table and discussions are continuing. The Committee will be advised of progress.

Lois Cuccinello asked, “Perhaps the Council is in jeopardy of being sued by municipalities that are in turn being sued for COAH obligations, on the grounds that they were not protected by the Council? We will need to evaluate that perspective and this Committee will need to be made aware of that potential.”

Ben Spinelli indicated that in the Preservation Area growth has been limited and these communities will have to look at various alternatives for addressing their COAH obligations. Such as Habitat for Humanity homes or group homes. Mr. Spinelli also indicated that we really need to reach out to Planning Area towns and work with them to assist them in this process. If Planning Area towns with redevelopment growth potential are forced to meet uncertain COAH obligations it will be difficult to bring them on board.

Lois Cuccinello asked, “How has the League of Municipalities been involved?”

Adam Zellner responded that the Council has been working with Bill Sarra, he is the League liaison to the Council. In July, the League will be meeting to establish a Highlands Committee to work with the Council.

Tom Borden indicated that Greenwich Township has agreed to be a Master Plan Planning Partner (MP3) town and to work with the Council on addressing COAH concerns in a Planning Area town.

Ben Spinelli asked about the DOT transportation project comment and review powers of the Council.

Tom Borden responded that the Interagency Committee will be able to comment on projects and feed them up to the full Council for review. The Committee needs to establish thresholds for review of transportation projects and determine criteria for reviewing a project and moving it to full Council. The Council has an advisory role in transportation capital projects.

Adam Zellner indicated that ultimately, the RMP will solidify the decisions of the Council; and in the interim the Council will be reviewing against a set of established

criteria. The idea is to tie land use planning to the transportation network. Jack Letiere at DOT has been applying the connection of land use and transportation and transit planning in his oversight role.

Lois Cuccinello opened the meeting to questions from the public.

No questions from the public.

Highlands Funding and Agency Coordination

Adam Zellner gave an overview of the four Highlands funding programs and as to how they may coordinate with other agency programs.

The first program is the Department of Community Affairs, Office of Smart Growth (OSG) - Transfer of Development Rights (TDR) Pilot program. Three pilots were selected and approved by the Council: Lodi, Oxford and Prospect Park. These demonstration projects are a one time funding program and the pilot site selection was based on DCA criteria. The scope of work for these projects and funding allocation is being discussed between the Council and Courtenay Mercer of OSG.

The second program is the Master Plan Planning Partners (MP3) demonstration pilots. These pilots will be selected throughout the Highlands region from both Preservation and Planning towns. Once approved by the Council these towns will serve as on the ground case studies as the RMP is being developed. These communities will each be selected based on a unique planning/land use concern that is prevalent throughout the Highlands region. These towns will be asked to adopt a resolution indicating that they are willing to work with the Council in this capacity. These are mostly in-kind grants however, as required they may be eligible for Technical Assistance Grants to assist in the case study evaluation. The Planning Area towns would serve as an opportunity to identify local Master Plan components that would need to be updated in order to opt-in to the Regional Master Plan.

The third type of program is the enhanced Planning Grants for Highlands Council TDR projects. These grants, as specified by the Act, are for implementation of the transfer of development rights program. The state TDR bank will support the Highlands TDR program by establishing a Highlands Sub-Chapter of the statewide TDR Bank. The state TDR bank will provide both planning assistance and land acquisition funding. The Council will be able to monitor the Sub-Chapter of the TDR bank and appropriate funds. The impact fees associated with the Highlands TDR program will need to be defined.

The fourth program is the General Planning Grant. These general grants are available to both Preservation and Planning towns in order to come into compliance with the Regional Master Plan.

The Council is investigating other potential funding sources to link to the development of the RMP and to support implementation of the RMP and opt-in towns. These opportunities will be documented and presented to the Committee.

Action Items/Next Steps

The Interagency Committee will meet next month.

The Committee will review the Draft MOA prepared by the Plan Implementation Committee for State Plan /Cross acceptance review. The Committee will further discuss how the coordination will work between the State Plan and opt-in RMP towns.

The Committee will review the draft of potential options and MOA with COAH.

The Committee will review a draft document that identifies outstanding needs and an outline of policies and procedures.

Lois Cuccinello opened the meeting to questions from the public.

Robin O’Hearn asked if towns that are both Preservation and Planning will negotiate State Plan considerations with the Council or with the State.

Adam Zellner replied that they will negotiate at the State with the Council represented; as well as other appropriate interested parties.

No additional questions from the public were received.

Lois Cuccinello closed the meeting and Glenn Vetrano second the motion.