

Minutes of the Sixth Meeting of the

ENVIRONMENTAL JUSTICE TASK FORCE

DATE: October 14, 2008

TIME: 4:00 p.m.

PLACE: Rotary Building
Frame Park
1150 Baxter Street
Waukesha, Wisconsin

Members Present

Ness Flores.....Attorney, Flores and Reyes Law Offices
Adelene Greene..... Director, Division of Workforce Development,
Chair Kenosha County
Joette HeckenbachCope Services, Ozaukee County
Nancy Holmlund Racine Interfaith Coalition
Daryl JohnsonExecutive Director, Riverworks Development Corporation
Brian PetersHousing Policy Advocate, Independence First
Yolanda Santos Adams Director, League of United Latin American Citizens
Jackie Schellinger Indian Community School
Theresa Schuerman Walworth County Bilingual Migrant Worker Outreach
Willie Wade Alderman, City of Milwaukee

Guests and Staff Present

Jim BoumanCitizen
Philip C. Evenson..... Executive Director, SEWRPC
Paul HayesCitizen
Gary K. Korb Regional Planning Educator, UW-Extension/SEWRPC
Roman Martinez.....Citizen
Peter McAvoy 16th Street Community Health Center
Linda McAlpine Waukesha Freeman
Benjamin R. McKaySenior Planner, SEWRPC
Karyn Rotker..... Attorney, ACLU of Wisconsin
Jim RowenCitizen
Kori A. Schneider - Peragine Program Manager, Community and Economic Development,
Metropolitan Milwaukee Fair Housing Council
Karen Schapiro.....Midwest Environmental Advocates
Gretchen Schuldt.....Citizens Allied for Sane Highways
Kenneth R. Yunker Deputy Director, SEWRPC

WELCOME AND INTRODUCTIONS

Chairperson Greene called the meeting of the Environmental Justice Task Force to order at 4:00 p.m., welcoming those in attendance. She asked the other Task Force members, staff, and guests present to briefly introduce themselves.

APPROVAL OF MINUTES OF THE JULY 29, 2008, MEETING

Ms. Greene asked if there were any questions or comments on the minutes of the Task Force's fifth meeting, held on July 29, 2008. Mr. Peters asked if the approval of the May 27, 2008, meeting minutes is included in the July 29 meeting minutes. Ms. Greene directed Mr. Peters to page four of the minutes. Ms. Holmlund stated that the minutes provide a good reference resource when there are long periods between meeting attendance, noting that she was unable to be present at the July 29, 2008, meeting. Hearing no more comments, Mr. Flores made a motion to approve the minutes from the July 29, 2008, meeting. Mr. Wade seconded the motion. The motion was approved unanimously.

PUBLIC COMMENTS

Ms. Greene noted that a request was made to move the public comment agenda item from the end of the agenda to the beginning of the agenda due to the length of many Task Force meetings, particularly the July 29, 2008, meeting. She then asked whether those in attendance wished to comment. The following comments were made:

1. Mr. Rowen requested that the agenda remain flexible regarding public comment periods. He requested that a public comment period be allowed at the end of the agenda as well as the beginning to allow for public reaction to Task Force discussion of agenda items. Ms. Greene stated public comments would also be allowed near the end of the meeting if time permits.
2. Mr. Korb distributed written comments provided by George F. Sanders, who was unable to attend the meeting (see Attachment 1).
3. Ms. Schellinger stated that Mr. Sanders's remarks contained some important points. Mr. Peters asked if SEWRPC knows what Mr. Sanders's remark about disinformation is referring to. Mr. Evenson stated that SEWRPC has not had any discussion with Mr. Sanders regarding his remarks.

SEWRPC REGIONAL LAND USE PLAN AND THE MCAVOY COMMENTS SUMMARIZED IN THE EJTF MEETING MINUTES OF MAY 27, 2008

Mr. Evenson introduced Mr. McAvoy and remarked on Mr. McAvoy's long relationship with SEWRPC, including a SEWRPC Technical Report entitled, *Planning Law in Southeastern Wisconsin*, which was prepared by Mr. McAvoy. Mr. Evenson then directed the Task Force's attention to a PowerPoint handout summarizing Mr. McAvoy's comments regarding SEWRPC's regional land use plan at the May 27, 2008, Task Force meeting (see Attachment 2). Mr. Evenson began by discussing the problems of implementing effective areawide planning outlined in the preface of the SEWRPC report prepared by Mr. McAvoy. Mr. Evenson stated that the problems identified in the 1977 report, including the wide dispersal of authority to each local government to plan and make decisions about land use in their community and the need for better coordination of local government land use decisions, still exist today.

Mr. Evenson then reviewed Mr. McAvoy's comments regarding the regional water supply plan from the May 27, 2008, meeting, including:

1. The water supply plan is being designed to serve and support the regional land use plan.

2. The Task Force should examine land use issues as they relate to the regional land use plan and the water supply plan.
3. The examination of land use issues may lead to amendments to the regional land use plan.
4. Accordingly, progress towards completing the water supply plan should be placed on hold until the Task Force weighs in on land use issues and the regional land use plan is appropriately amended.

Mr. Evenson then provided the Task Force with a brief overview of the regional land use plan in response to Mr. McAvoy's comments (see Attachment 2). Mr. Evenson stated that the regional land use plan is the cornerstone of the overall plan for the Region, provides the basis for other plan elements such as transportation and water supply, and is intended to provide a regional framework for many aspects of county and local government comprehensive plans.

Following Mr. Evenson's presentation, the Task Force members raised the following discussion points and comments:

1. Mr. Peters asked if local government comprehensive plans now had to be consistent with the SEWRPC regional land use plan as a result of the State comprehensive planning law. Mr. Evenson responded that they do not. The comprehensive planning law requires consistency between local government comprehensive plans and local government land use ordinances, such as zoning ordinances.
2. Ms. Heckenbach arrived at the meeting and asked if Mr. Peters could repeat his opening comments made at the beginning of the meeting. Mr. Peters responded that he inquired about the approval of the May 27, 2008, Task Force meeting minutes.
3. Ms. Holmlund stated that the regional housing plan should proceed and the Task Force should identify any flaws in the recommendations of the regional land use plan and water supply plan as the housing plan moves forward.
4. Mr. Flores asked Mr. McAvoy if his prior comments regarding the land use plan remain the same after hearing Mr. Evenson's response and Ms. Holmlund's statement regarding the regional housing plan. Mr. McAvoy responded that a significant portion of the planning law report he prepared for SEWRPC in 1977 was relevant to housing. The planning law report stated there were developing housing inequities in the Region as identified in the 1975 regional housing plan. Trend lines were identified regarding where the affluent population of the Region would live and how it might affect the low-income population of the Region. Mr. McAvoy stated that those trends have become reality and resulted in greater divisions between affluent and low-income populations, exclusionary zoning based on wealth, and fewer employment opportunities for the low-income population of the Region.
5. Mr. McAvoy stated that water supply could be used as leverage to address negative land use trends in the Region. If water is extended simply on the basis of demand, as other infrastructure in the Region is, negative land use trends will continue. Mr. McAvoy stated that the land use law flaws in the State that Mr. Evenson referred to do exist; however, water supply is an opportunity to use water diversion law to increase the influence of regional planning. If this opportunity is not utilized, current land use trends will continue and urban centers will decline creating a greater divide between the affluent and low-income populations of the Region.

6. Mr. Flores stated that continued fractionalized authority and decision making is the greatest land use problem in the Region and the Task Force can make recommendations but the situation will continue. He also stated that the regional land use, water supply, and housing plans are all interrelated, but are all in different stages of development or completion.
7. Mr. Yunker stated that the regional land use plan does not just accommodate trends. He noted that the land use plan recommendations take into account many of Mr. McAvoy's concerns; however, the recommendations are rejected by some local governments. An example includes local government approval of urban development in environmental corridors and prime agricultural land. Mr. Yunker also stated the regional plan recommends that existing economic centers, which tend to be located in the historic urban centers of the Region, should be revitalized; however, new centers may be developed against regional plan recommendations between planning cycles. Regional plan updates are then forced to acknowledge the existence of these new economic centers. The land use plan also recommends that the vast majority of additional housing in the region be developed at medium and high urban residential densities, but regional plan recommendations are not always followed by local governments.
8. Mr. McAvoy stated that the water supply plan should not be delayed until the regional land use plan is updated again. Instead, issues in addition to infrastructure cost, such as the effect of urban sprawl on the Region, should be incorporated into the water supply plan recommendations. The Great Lakes Compact will provide SEWRPC with more oversight regarding water supply, which can be incorporated into land use planning decisions. This provides an opportunity for land use related costs to be incorporated into the water supply plan.
9. Mr. Wade stated that he agrees with Mr. McAvoy's comments regarding land use development trends over the last 30 years in the Region. Mr. Wade also stated that these trends have major and expensive implications for the Region such as the cost of infrastructure, the widening divide between the affluent and low-income populations of the Region, and loss of employment opportunities for low-income populations of the Region. Mr. Wade then noted that the negative trends the Region has experienced can be, in part, attributed to issues such as sprawling land use development patterns not being included in past decision making processes. Mr. Wade stated that hindsight tells us what has brought the Region to this point, observing that previous opportunities for improvement were lost. He stated that there is new opportunity to avoid future mistakes by including analyses in current plans that will address the consequences of poor land use decisions.
10. Mr. Evenson used the Pabst Farms development as an example of how recommendations of the regional land use plan can be rejected. Mr. Evenson stated that the regional land use plan had historically recommended that the area stay in rural use for several reasons including the protection of prime agricultural land, the protection of a high quality groundwater recharge area, and the location being too far from urban centers such as Milwaukee to be an accessible economic center. Although recommendations for the area have historically been for rural uses, there are three governments, Waukesha County, the Town of Summit, and the City of Oconomowoc, with land use authority in that location. Mr. Evenson explained that local governments often believe additional tax base is positive and will create a lower tax rate for existing residents, even though studies have shown that rural land uses often result in the most positive revenue/cost of services ratio. The Pabst Farms location is an example of fractionalized authorities that has resulted in a development becoming a reality that was not supported by the regional land use plan. That reality cannot be ignored by regional planning in the future. Pabst

Farms is also an example of why other State level policies, such as tax policy, may have to change to facilitate a change in land use policy.

11. Ms. Holmlund stated that a new type of vision is needed to facilitate a change in land use policy based on best community practices. She stated that the State needs to be convinced to address current State policies and laws.
12. Mr. Evenson responded that, on the other hand, Walworth County is a successful example of a County implementing zoning to preserve environmental features and agricultural lands. He reiterated how tax policy and base affect local government decisions. He cited the proposed merger of the Village and City of Pewaukee. The merger would result in significant savings, which nobody disputes; however, City of Pewaukee residents currently have significantly lower tax rates than the Village, and the possibility of lower overall infrastructure costs with a merger does not outweigh the possibility of higher tax rates to City residents.
13. Mr. Flores stated that water use can be used as leverage. SEWRPC should consider working to incorporate water use policy into the three interrelated regional plans, land use, water supply, and housing, to influence land use policy.
14. Mr. Wade stated that there are number of items left on the agenda and the Task Force should move on to the next agenda item due to time constraints.
15. Ms. Heckenbach asked to speak about the transportation element completed as part of the Ozaukee County Comprehensive Plan before moving to the next agenda item. She noted that the transportation element of the Ozaukee County Comprehensive Plan was integrated with the land use element of the plan. She stated that land use planning is very complicated and the decision-making process cannot be completed without adequate data. She added that the Town of Cedarburg is a good example of the complexity of land use planning. Factors such as potential annexation by the City of Cedarburg had a role in the Town rejecting the recommendations of the regional land use plan in its comprehensive planning process. Ms. Heckenbach stated that the only way to address the many complexities of land use planning is to use all available data. A body such as the Governor's task force on global warming might be a good source of data and recommendations that should be incorporated into regional planning. Mr. Yunker responded that recommendations made by the Governor's task force would assist in implementing the recommendations of the regional transportation system plan. Ms. Greene stated that the Task Force must move on to the next agenda item due to time constraints.

UPDATE ON THE SEWRPC REGIONAL WATER SUPPLY STUDY

Mr. Yunker directed the Task Force's attention to the PowerPoint handout entitled Update on Southeastern Wisconsin Regional Water Supply Study (see Attachment 3) and briefly reviewed the four original alternative plans. Mr. Yunker then briefly reviewed the test and evaluation results of the four alternative plans, including the capital costs of each alternative and each alternative's effect on the deep and shallow aquifers.

Mr. Yunker stated that a composite plan -- which would be the initial preliminary recommended plan -- that combines the best elements of the four original water supply alternative plans has been developed based upon the evaluation results. There are currently two subalternatives to the composite plan. Mr. Yunker briefly explained the characteristics and testing and evaluation results of the two subalternatives,

noting that subalternative two includes all of the aspects from subalternative one, plus the City of Waukesha water utility would be converted to a Lake Michigan supply with a return flow component and the enhanced rainfall infiltration acreage would be reduced from 2 square miles to 1.7 square miles. Mr. Yunker then stated that the water supply study Advisory Committee believes either composite plan subalternative can be implemented.

Mr. Yunker concluded the presentation by stating how, to date, the Task Force suggested environmental justice considerations of the water supply plan be addressed. The main overarching theme heard at previous meetings was that communities which receive Lake Michigan water from the City of Milwaukee in accord with implementation of a regional water supply plan should in turn fully implement other elements of regional plans including: the transit element of the regional transportation system plan, the regional land use plan, and the upcoming regional housing plan.

Task Force members raised the following discussion points and comments regarding the update on the regional water supply study:

1. Mr. Flores asked how many of the communities proposed for extension of Lake Michigan water in the initially recommended plan have water quality problems. Mr. Evenson stated that all of them do to some extent; however, some community's problems were less significant than others and could be overcome by changes to the groundwater supplies and continued use of those supplies.
2. Mr. Peters asked why the return flow pipeline on the maps for the City of Waukesha appears to follow different routes. Mr. Yunker responded that different return flow alternatives are being considered and final decisions would not be made until preliminary engineering and later studies are complete. Mr. Flores asked about the return of New Berlin water to the Lake. Mr. Yunker stated that the New Berlin return was different because it would return untreated wastewater via existing connection to the Milwaukee Metropolitan Sewerage District.
3. Ms. Greene asked when the study will be completed. Mr. Yunker responded that the earliest the plan could be completed is next year.
4. Mr. Peters stated that he appreciates the information resulting from the extensive data collection and analysis that have been completed as part of the water supply study; however, other information is needed to assess whether changes in the development pattern of the Region should be considered. Mr. Evenson responded that there is an adequate groundwater supply in the Region and water supply alone would not likely significantly leverage those decisions.
5. Mr. Flores noted that less salt will be discharged into the environment if more communities utilize Lake Michigan water supply. Mr. Evenson agreed, noting that savings in water softening costs with consequent less salt discharge were considered in the alternative to switch to Lake Michigan water.
6. Mr. Wade stated that land use was a major consideration in the water supply negotiations between the City of Milwaukee and the City of New Berlin. Mr. Wade also stated that land use will continue to be a major factor as the City of Milwaukee considers supplying Lake Michigan water to additional communities in the future.

7. Ms. Greene asked that the Task Force transition the discussion to allow for additional public comment.

PUBLIC COMMENTS

The following comments were made:

1. Ms. Rotker stated that the costs examined in the water supply study are still limited to infrastructure costs and not social costs, such as possible loss of access to jobs for Milwaukee residents as a result of the water supply study recommendations. These are the types of costs that would be analyzed as part of a socio-economic impact analysis component to the water supply study. Ms. Rotker then stated that the Task Force should pass a resolution requiring socio-economic impact studies conducted by an independent consultant for all SEWRPC studies prior to completion of the water supply study. Ms. Rotker also encouraged the Task Force to take formal action requiring an analysis of anti-sprawl land use planning best practices in the water supply study.
2. Ms. Schneider-Peragine recalled her involvement in the Waukesha County comprehensive planning process as an example of race being a motivating planning factor in the Region. Ms. Schneider-Peragine stated that she served on the Waukesha County housing element advisory committee. She felt that her suggestions regarding affordable housing recommendations were largely ignored in preparing the plan. She stated that representatives from several communities told her afterward that affordable housing was not desirable in the minds of some local officials because it is perceived to attract minority residents.
3. Mr. Rowen stated that he agrees with Mr. Wade's prior comments regarding negative trends in the Region and the need to make the tough planning decisions to reverse trends and realize opportunities. Mr. Rowen reiterated Mr. McAvoy's prior statement that there is still enough time to analyze and address the Region's land use issues in the water supply plan and the housing plan. He stated that the Task Force is a sleeping giant and needs to realize its full authority.
4. Ms. Schuldt stated that in the past she has supported SEWRPC's outreach efforts to residents of the Region; however, the upcoming Federal certification process is inadequate and disappointing. As far as she is aware, Southeastern Wisconsin is the only region in the State that has been allowed to use an open house format instead of a public hearing format, and that would be a form of discrimination.
5. Ms. Greene thanked the members of the audience for their additional comments and asked the Task Force if it wished to adjourn the meeting or continue with the agenda, given that it was already past 6:00 p.m. Ms. Santos Adams requested that the Task Force discuss further consideration of socio-economic impact analyses, which is agenda item number 6. The Task Force members agreed.

FURTHER CONSIDERATION OF SOCIO-ECONOMIC IMPACT ANALYSES

Task Force members raised the following discussion points and comments regarding socio-economic impact analyses:

1. Ms. Santos Adams asked for an update on the cost of socio-economic impact studies, given a reference in the previous meeting to budgetary constraints. Mr. Evenson asked which study specifically. Ms. Santos responded the socio-economic impact study that would be done as part of the housing plan. Mr. Flores recalled that prior discussion had been to include a socio-economic impact analysis in all SEWRPC plans. Ms. Heckenbach responded that Mr. Flores was correct. Mr. Yunker stated that no cost estimate has been prepared, but a socio-economic impact analysis will be included in the housing plan scope of work and information regarding the analysis will be developed through the scope of work.
2. Ms. Heckenbach asked Task Force members if they had reviewed the materials about socio-economic impact analyses she provided through the Task Force list serve. Mr. Yunker indicated that handouts of the material were available if desired. Ms. Heckenbach asked if her motion regarding socio-economic impact analyses at the July 29, 2008, meeting was included in the meeting minutes. Mr. Evenson responded that the motion is referenced. Ms. Heckenbach added that a cost estimate of conducting a socio-economic impact analysis must be weighed against the costs to the residents of the Region of not including such analyses in SEWRPC studies.
3. Mr. Yunker stated that SEWRPC staff agrees socio-economic impact analyses should be included in SEWRPC studies; however, staff believes this capability should be developed in house. Mr. Yunker stated that the example Ms. Heckenbach shared with the Task Force explains how to perform a socio-economic impact analysis as part of the review of a specific development proposal; however, best practices in conducting a socio-economic impact analysis for a region-wide study may be available from the Federal Highway Administration.
4. Ms. Heckenbach stated that timeliness in the completion of SEWRPC studies is important and that is one of the reasons an outside consultant should perform socio-economic impact analyses. Ms. Heckenbach then distributed a handout describing the duties of the Task Force as stated on the SEWRPC website and a written copy of the motion regarding the inclusion of socio-economic impact analyses in all SEWRPC plans. Ms. Heckenbach made a motion that every SEWRPC plan, i.e. housing, land use, transportation, water, etc., will incorporate a socio-economic impact analysis provided by a reputable independent source other than SEWRPC before the plan may be adopted to meet the guidelines and specific purposes of the Environmental Justice Task force as outlined by SEWRPC. Mr. Wade seconded the motion.
5. Ms. Greene called for discussion on the motion. Ms. Schellinger asked why SEWRPC staff should not conduct the socio-economic impact analyses. Ms. Holmlund stated that this has to be an overall view on how plans impact people; and this situation has not occurred before because there was no Environmental Justice Task Force. Ms. Schellinger asked if the language in the motion requiring an independent consultant to conduct the socio-economic impact analyses is necessary. Mr. Wade stated that the Task Force exists because of interest in obtaining outside viewpoints. He added that the language is necessary because of how people have perceived past SEWRPC planning processes. An unbiased independent study will reduce the perception that SEWRPC is not forthcoming in its planning processes. Mr. Wade further suggested that SEWRPC could prepare alternative socio-economic impact analyses in house and compare them to the analyses prepared by independent consultants. Ms. Heckenbach stated that she agrees with Mr. Wade's points and also stated that experience in conducting these types of analyses is desired. Ms. Santos Adams stated that she has confidence in SEWRPC staff to conduct socio-economic impact analyses, and at the last meeting she did not support the language regarding the use of an independent consultant; however, supports it now after hearing this discussion.

6. Mr. Johnson asked what the proposed hiring process for an independent consultant would be and whether it would be a bidding process. Mr. Evenson responded that SEWRPC uses a qualifications based process as opposed to a bidding process to hire for professional services. Mr. Flores stated that the motion before the Task Force is a recommendation to the full Commission and as such the Task Force should make a motion they feel is correct. Mr. Evenson stated that SEWRPC staff is capable of conducting socio-economic impact analyses, indicating a personal objection to the notion that staff is not capable of such work. Mr. Evenson noted that planners are trained to conduct many types of analyses, including components necessary for socio-economic impact analyses.
7. Mr. Wade stated that the sentiment of his constituents is that SEWRPC is not always completely forthcoming in its planning processes and he must represent his constituents' concerns on this matter. Ms. Holmlund stated that the independent consultant will add credibility to the housing plan considering where SEWRPC offices are located. Ms. Greene asked for a vote on the motion. The motion was approved with one vote opposed.
8. Mr. Peters asked how the housing plan will be funded. Mr. Evenson responded that the housing plan will use funds from SEWRPC's continuing land use and transportation planning program. Mr. Yunker stated that funding for an independent consultant has not been included yet.
9. Ms. Greene asked if the Task Force wished to continue with the agenda or move the remaining agenda items to the next meeting. Mr. Wade asked to continue with the agenda.

UPDATE ON SEWRPC REGIONAL HOUSING STUDY

Mr. Evenson stated that a list of nominations for the regional housing study Advisory Committee has been compiled based in part on submissions from Task Force members and a handout was distributed (see Attachment 4). Candidates for inclusion on the Advisory Committee will be an agenda item at the next meeting of the Commission's Executive Committee on October 23, 2008, at SEWRPC's satellite office in the Milwaukee County Research Park. Mr. Evenson then stated that release of the housing study scope of work simultaneously to the Advisory Committee and Task Force will follow the approval of the Advisory Committee.

ANNOUNCEMENTS

Mr. Yunker stated that the Federal Highway and Transit Administrations will be holding a public meeting the Federal Planning Certification Review of the Regional Transportation Planning Process Conducted in Southeastern Wisconsin on October 22, 2008, from 5:00 to 7:00 in the Harbor Lights Room of the Milwaukee County Downtown Transit Center located at 909 E. Michigan Street in Milwaukee. Mr. Yunker stated that it will be an open house format with SEWRPC staff and representatives from the U.S. Department of Transportation, Wisconsin Department of Transportation, and local transit operators present. Comments will be accepted during the meeting and during an official comment period that will run through early November.

Mr. Rowen asked from the audience if the open house format was determined by SEWRPC. Mr. Yunker responded that the meeting is being held by the Federal agencies, and the format is their decision.

Ms. Rotker stated from the audience that she is concerned about the short notice of the open house to the public and to the Task Force. She stated that the certification review was not an agenda item for the July

29, 2008, meeting and the Task Force was not given an opportunity to provide its input regarding the public participation aspects of the upcoming certification review.

NEXT MEETING

There being no further comments, Ms. Greene indicated that the next meeting of the Task Force would be on Tuesday, November 25, 2008, probably at Heartlove Place, Inc. in Milwaukee. [Secretary's Note: The next meeting will be held at the Department of Public Works Field Headquarters, 3850 North 35th Street., in Milwaukee.]

ADJOURNMENT

Ms. Greene thanked the Task Force and guests for their time and participation. Mr. Flores made a motion to adjourn and Ms. Heckenbach seconded the motion. The motion was approved unanimously and the meeting was adjourned at 6:40 p.m.

Respectfully submitted,

Benjamin R. McKay
Recording Secretary

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