

SUMMARY OF FEEDBACK RECEIVED AT LAND ACQUISITION SYMPOSIUM

On Tuesday, November 28, the New Jersey Schools Construction Corporation (SCC) and the New Jersey Department of Education (DOE) co-hosted a Symposium on Land Acquisition for Abbott School Construction. The purpose of the event was to obtain Abbott district and stakeholder input on proposals to reform and improve the process of identifying and acquiring land for Abbott school construction. Some of these proposals were introduced in the Interagency Working Group reports that have been released.

Approximately 115 people attended the event, including superintendents, business administrators, facilities planners and school board members; mayors and other municipal representatives from housing authorities and redevelopment agencies; community, planning and education advocates; and SCC and DOE staff.

OPENING REMARKS

After attendees registered, SCC Chief Executive Officer Scott Weiner provided opening remarks. Mr. Weiner explained that a key objective of looking at the land acquisition process was to gain input from stakeholders to reform and rationalize the process because it cannot continue as it has. In the past, land acquisition issues and challenges were a primary contributor to the slow pace of construction. He indicated a need to reconcile these challenges as we move forward. Mr. Weiner explained that no specific conclusions have been made – that the SCC and DOE were simply presenting ideas so we can receive stakeholder feedback before drafting legislation that would provide additional funding and statutory reforms. He acknowledged that their input is essential to developing meaningful solutions to these problems as this is the beginning of a conversation about these issues, not the end.

Next, DOE Assistant Commissioner Gordon MacInnes spoke about how the school facilities law created many of the challenges presently before us. He discussed how the law was passed with a “distrust” of the Abbott districts and it gave direct control of building these facilities to the State. He said the law only provides a single approach to acquiring land in the most densely populated cities, which has resulted in a slow and expensive experience producing unsatisfactory results. He also explained that the substantive exchange on this issue was perfectly timed because Governor Corzine has indicated that authorization of additional funding must be simultaneous to changing the law so it is more efficient.

Lastly, Joe McNamara, Chairman of the SCC Board’s Land Acquisition Committee, put the land acquisition dilemma into perspective. He explained that when the program was created six years ago, the most overlooked aspect was land acquisition in that none of the \$6 billion allocated was earmarked for land acquisition or remediation. Yet, he suggested that land acquisition has become a costly component of the program with \$500 million spent thus far on land costs, and if the process continues as it has, the SCC will have spent \$1 billion on land. Mr. McNamara indicated this has put a significant financial strain on the program and identified several reasons for why land acquisitions costs are so high – scarcity of land, need to provide parking, length of time it takes to acquire land and increased property values in urban areas. In the end, he concluded that everyone needs to work together to make the difficult decisions needed.

PANEL DISCUSSION I: PUBLIC PARTNERSHIPS
MODERATED BY GORDON MACINNES

Following the opening remarks, Mr. MacInnes moderated the first panel discussion focused on improving public partnerships in land acquisition. Specifically, the panel discussed the use of publicly-owned land for school construction, the role of municipalities in inventorying available land and including schools in Master Plans, and how the tug-of-war between the need for ratables and the need for schools could be resolved. The panel came to a consensus on the need for municipalities and districts to work better together. The panelists were:

Eileen Swan, Executive Director, Office of Smart Growth, Dept. of Community Affairs

Honorable José “Joey” Torres, Mayor, City of Paterson

David Mooij, Superintendent, Neptune School District

David Listokin Ph.D., Research Professor and Co-Director of the Center for Urban Policy Research, Edward J. Bloustein School of Planning and Public Policy

John P. Clarke FAIA, Senior Partner, Clarke Caton Hintz

Mr. MacInnes began by stating that planning plays a key role in school construction and that some districts have had their schools integrated into the municipal Master Plans, and others haven't. Ms. Swan commented that legislation mandates that Master Plans are updated every six years, and that open space and farmland plans are a mandatory component, but school strategic plans are not included. However, she stated that houses and schools provide viable communities and economic development is linked to having good communities with schools and homes to support growth. She also indicated that timing is key when it comes to planning since the school plans are done every five years, municipal plans every six years, and the State Plan every three years though they have a vision plan for the following 20 years. She said there has to be a better way to link these plans.

Dr. Listokin clarified that schools are in fact included in language that governs Land Use Plans and Community Facilities Plan. He also stated that it is a requirement for the Planning Board to review and issue findings concerning the LRFPs submitted by the Board of Education. Therefore, he suggested that, in theory, coordination should be occurring.

Mr. Clarke suggested that the LRFPs have done a great job in identifying enrollment and existing facilities, but there has not been an emphasis on including the sites to be developed. He thought this was a key area where municipalities and districts can begin to interface, since site identification is a local problem that cannot be solved by the State. He also suggested that those districts who were able to identify sites in the 2000 LRFPs have made more progress than those that did not. He also stressed that school construction is not separate from community development and that they need to go hand-in-hand.

Mayor Torres discussed how a key strategy for municipalities can be to identify land for public uses, including schools and use tiers such as substandard property, vacant land, parks, public property, etc. He said that once property is identified in areas in need of redevelopment, towns can capitalize on school construction to revitalize that neighborhood.

Mr. MacInnes asked the panel if they would consider or reject a recommendation that would make the Land Use Law more specific by requiring coordination between the Planning Board and the Board of Education. Mayor Torres thought redundancy would be helpful. Ms. Swan concurred that collaboration is necessary and spoke about how the Smart Growth Policy Council, which includes DCA, DOT, DEP, Ag, EDA, NJ Transit and others, is looking at the Plan Endorsement process to improve it. She said the Board of Education is a member of this Council and is a partner as the state looks at comprehensive planning for all communities. She said they are considering adding a requirement that in order for municipal plans to be endorsed, the LRFP had to be approved by the local governing body and school sites have to be included in the Master Plan.

Dr. Listokin pointed out that when districts project future enrollment, it is based on a five/ ten year basis; yet a school facility is expected to have at least a 50 year life. He concluded that the numbers aren't that useful and that municipal input is needed to make it more accurate. He cited West Windsor as an example of a municipality and district that worked together.

Mr. MacInnes then suggested that if the state is covering the cost of school construction, then should a municipality inventory the publicly-owned land available for that school? He suggested it could help accelerate the process of building schools and prevent the state from having to purchase the land – it would be the municipality's contribution. Mr. Clarke thought that, at the core, it's the right idea, but that the economics of land acquisition would be a problem. Torres also thought it would be the "right thing to do" but cautioned that municipalities are faced with equalizing the tax base, and this would only shift the cost burden. He suggested other ways municipalities could make a contribution, such as through using parks for play space or by providing publicly-owned land at a discount to the State.

Mr. MacInnes acknowledged the realities of needing to improve the ratable base. However, he cited instances where in the past, a site was identified for a school and then a municipality granted higher density rights to another party, which then increased the highest and best use of the land and ultimately the price of the land. He asked the panelists if there should be a 1-year freeze on the property after it has been identified by the SCC as a potential school site. Mayor Torres thought it would be reasonable to put restrictions, such as a one year freeze. But he urged the SCC to move quickly because it is unfair for the municipality to hold the empty site for years if someone else can put it to use.

Mr. MacInnes then asked the panel if there were other ways to correct the problems of the past. Mr. Mooij suggested the use of "partnering," which is done early in a project's life between the owner and the builder. He suggested that municipalities "partner" from the beginning and a way to facilitate that is to use the municipalities' planners or demographers. This not only helps obtain municipal buy-in, but it is a way to share services. He suggested this needs to be a requirement and is an opportunity for legislation or even regulation.

Mr. Clarke reiterated that it is realistic to be concerned about cities' fiscal realities and their need to create ratables. He again suggested that SCC should not be identifying sites for schools, and instead, it has to be a collaborative effort. Dr. Listokin continued the conversation regarding the fiscal pressures in Abbott districts. He said that the average property tax rate is 2 percent of real

value, with \$1.10 for school taxes and \$.50 for municipal taxes. The total rate in Abbott districts is \$2.40. Further, 50 percent of assessed properties in Abbott districts are tax exempt – as opposed to 15 percent in other districts – due to the volume of hospitals and universities in these areas. He said it is not realistic to expect municipalities to bear the costs of land acquisition. However, costs could be shared with municipalities or even developers through school impact fees.

PANEL DISCUSSION II: PUBLIC AND PRIVATE PARTNERSHIPS MODERATED BY SCOTT WEINER

Next, Mr. Weiner moderated the second panel discussion on public and private partnerships. Specifically, the panel discussed what kind of joint-use opportunities should be allowed, how mixed-use development could address the conundrum between land for schools vs. ratables, and how schools can take advantage of existing community assets to reduce the need for land. The panelists agreed that more flexibility is needed to allow for this type of development, but there were varying opinions on who should coordinate the opportunities. The panelists were:

Alan Mallach, Research Director, National Housing Institute

Helga Crowley, Executive Director, Perth Amboy Redevelopment Authority

Dr. Ray Lindgren, Assistant Superintendent, Newark Public Schools

Deane Evans, Executive Director, Center for Architecture and Building Science Research, NJIT

Richard F.X. Johnson, Senior Vice President, Matrix Development Group

Mr. Weiner began by suggesting that in addition to districts, municipalities and the State, there is a potential fourth partner in school construction – developers – who can be an active participant. He suggested that school construction dollars could be leveraged, through mixed use development, to achieve ratables and community revitalization and asked the panelists what kind of joint-use opportunities they would like to take advantage of.

Mr. Mallach stated that it is critical to change the basic principle that schools are self contained buildings on self contained sites. He referred to the large amount of development currently occurring in New Jersey's cities, suggesting developers have no problem finding land. He thought the SCC or the district should actively seek partnership opportunities with developers. He referenced a project in Toronto that was an apartment tower that included retail, educational and residential space. He said it is critical to have the legal tools to enter into relationships, to build expertise in the SCC capable of doing these transactions, and developing an entrepreneurial attitude to seek out these opportunities.

Dr. Lindgren, from the point of view of the school districts, said that they are so focused on building schools that they're not always able to see the big picture. Or, in the past, when they did think outside the box, they were told why it couldn't happen. He said that has changed with SCC's new leadership, which has focused on how to make things happen.

Ms. Crowley responded from a redevelopment view. She said that Perth Amboy has begun to build schools within schools, which reduced the amount of land needed. She also said they

would create school wings in their downtown areas and would forge partnerships to create other opportunities – such as sharing of a media space.

Mr. Evans explained that his Center is currently looking at how schools can be a catalyst for economic development. He cited examples – New York City, McCormack Baron in St. Louis, LA Unified, L Corp Development in Washington D.C., and Celebration in Florida – as examples of where school facilities were seen as integral to residential projects. He said these clearly address the need for ratables and for school facilities, but that the larger question was how to facilitate the discussion. He said it is necessary to look at the State’s activity as a community investment. He suggested that municipalities and districts meet with developers on a local level to look at the issues more closely. He also suggested that the first step in having the municipalities involved in this is for the districts to demystify the LRFPS for them.

Mr. Johnson cited a project his company attempted five years ago that involved an abandoned hospital facility being converted into a mixed use project with office space, residential, retail and a high school for the Board of Education. He said it didn’t work and they spent a great deal of time trying to figure out what went wrong. He believed that political squabbles got in the way of a solution and many people forgot who the real client was – the children. He said that schools are society’s most essential infrastructure and there is a need to figure out how to fund them. He said the solution might lie in the underlying principles of infrastructure funding, which has a longer term payback period but is funded by infrastructure experts. He thought privatizing the school development process could be part of the solution because it allows for the allocation of risk to people who know how to mitigate risk.

Mr. Weiner then asked the panelists for specific obstacles in the current law that prevents these type of innovative partnerships.

Dr. Lindgren pointed to several positive examples in Newark where the District has worked collaboratively with non-profits, the County, the Housing Authority or the City to meet its needs (i.e. using county and city parks for play space or sharing university parking). He said it was challenging to get all of the parties together but that it could be done.

Mr. Weiner then asked Mr. Johnson how a district can attract private investment and what the obstacles are. Mr. Johnson explained a developer will want to see if the school is an integral component of a Master Plan and if it has been embraced at the planning board level. He also said that a municipality needs to show flexibility to thinking “outside the box” and to understanding density.

Mr. Mallach also thought it was critical that there be a basic planning framework in the local government – with a good Master Plan and a good relationship with the school. He again stressed the need for the legal and financial tools at the SCC to put the deals together. He suggested that the SCC have the ability to do turn-key deals. He also saw missed opportunities where the SCC could have sold air rights to developers and recouped acquisition costs. He said that if the SCC is going to operate in a complex real estate market it cannot continue as it has.

Mr. Weiner clarified that the SCC does not want to be the party responsible for the deal and that it does not want to be a co-developer, as that is the role for the local governing bodies. Instead, the SCC's role is as the financier. He said that if the municipalities are not in a position to do these transactions, then perhaps the SCC needs to be transformed into a completely new entity tasked with community and economic development, rather than just the construction of schools. He then invited the panelists to provide specific flexibilities needed in the Act.

Ms. Crowley indicated that financing is key. Mr. Weiner responded that planning is also key and that the strategic plan will determine which projects get built. Mr. Johnson said it is important to remember that schools represent a catalyst and when coupled with the credit of the State, it can be leveraged. He cited the example of Massachusetts and the "Commonwealth Capital" program, which promotes density and subsidizes municipalities that *might* have an increased number of school age children generated by the increased density. He said it is critically important for the SCC to recognize what it brings to the table, and to not get preoccupied with staffing up to create the necessary expertise in-house. He said that SCC should focus on entrepreneurial management, not try to do it themselves.

Dr. Lindgren said it was also important to consider timing because for developers, time is money. They need certainty. Mr. Mallach then commented that the SCC should not be running every project, but instead, act as a financing vehicle with developers, county improvement authorities or redevelopment agencies doing the rest of it. He said it is critical for the legal and financing structure in place to allow the SCC to take a step back. Mr. Evans continued the conversation about timing saying that one of the main thrusts of the past several months has been to put predictability back into the system so that schools will unfold in a process that is transparent. He said this predictability would make it easier to have conversations about development because it will be known which schools get built and when.

Mr. Weiner then asked for some closing comments. Mr. Mallach suggested that an added benefit of building schools this way and tying them into development is that there will be smaller schools, which is a positive educational outcome. He said there's a synergy between rethinking land acquisition and getting real educational and financial benefits. Dr. Lindgren commented that NJIT has demonstrated that ideas are out there for innovative design, but we cannot currently draw on them. He said he is worried that folks are talking about more legislation when what they need is less regulation and red tape. Mr. Weiner clarified that the need is for empowering legislation that repeals obstacles and creates an enabling atmosphere.

Ms. Crowley said she is encouraged to hear that the State Plan will begin to look at Master Plans and LRFPs as one unit. She is also encouraged that the SCC is trying to become more flexible and realize that urban environments are unique. Mr. Evans commented that the non-profit world should be tapped into because they've been successful in bringing different parties to a table. He also suggested that joint use of community assets – like parks or parking – is important, but we also need to look at reusing facilities. He said good planning and good design could help move projects forward.

Mr. Johnson closed by posing the following questions – if the SCC is trying to save costs, why aren't there prototype schools? Or, if sustainable design has an impact on learning, why isn't it a

basic feature? Mr. Johnson further noted that we're managing diminishing resources and we need to promote high density, mixed-use development.

PLENARY SESSION

After the panel discussions ended, participants headed into four break-out sessions to further discuss the topics addressed by the panels. After an hour and a half discussion, the participants returned for a Plenary Session where representatives from each group shared their findings. The representatives included:

Irene Sterling, Paterson Education Fund

Frances Finkelstein, Paterson Board of Education

Catherine Counts, Johnson Jones Architecture and David Mortimer, Mortimer Consulting

Wendy Kunz, Camden School District

Mr. Weiner asked each of the representatives how they responded to the following questions:

- *Should publicly owned land – either owned by the municipality or the school district – be devoted for school construction before any state funds are used? How should schools be treated in a municipality's master plan?*
- *Can/should municipalities help reserve sites for schools? Would an inventory of all municipal land available for school construction be useful? Who should develop such an inventory?*

The representatives indicated that there was a consensus that there should be an inventory of publicly owned land (district and municipal), and that perhaps a municipality can pass a resolution to set it aside for school purposes. Another group indicated that they shied away from anything that said "should or must" and that they addressed this question from a planning perspective first. They said that districts and municipalities should identify sites where schools are needed, then present the plan to the community and indicate which can be satisfied with public land. However, once an inventory of public land is completed, there may not be all that much public land available. Or, the publicly owned land may not be deemed suitable for schools. Therefore, it is ineffective to assume that all publicly-owned land could be designated for schools.

(As an aside, one group commented that it had a hard time getting out of the past and that more transparency is needed about what occurred in the past. Mr. Weiner said that is understandable and urged folks to read the three Working Group reports which address that issue. He also indicated that public expectations were unreasonable in that the \$6 billion could never address the total need. He continued that the SCC's past problems are attributable to a lack of accountability and management.)

Additional comments on this topic included discussion of ways to make the process simpler – perhaps by using design build or by using municipal services. Municipal representatives

suggested that joint planning needs to be required and that local planning organizations need to be brought into the process because many functions already exist at the municipal level and they could help lower costs.

Another group commented that the program works well where there is already a partnership between municipalities and districts, but that the Land Use Law should have a mandatory requirement that a school board member be on the Planning Board and that any Master Plan committee should have a school representative. This would help institutionalize the idea of planning. Representatives further commented that municipalities need to be better represented in the LRFP process because then there is joint ownership and better information sharing.

Additional comments made during the break-out sessions but not discussed during the plenary session were regarding to the staging of schools. Specifically, some districts have enough sites to accommodate facility needs but they need to be built in the right sequence to take maximum advantage of available land. One suggestion was to develop detailed land inventories for all of the Abbott districts and then cross-reference them with the LRFP's for each district as part of an overall planning/ prioritization process going forward. This would ensure "district fit" for projects and reveal the projected magnitude, if any, of the land problem in a given district.

Next, Mr. Weiner sought the representatives' input on the following questions:

- *How can the cost of acquiring sites – no matter who bears financial responsibility – be reduced? What are the respective roles of districts, municipalities, and the State in this process?*
- *Should schools be built on contaminated sites? Should there be a cap on how much money is spent on site remediation? At what point should a site be abandoned and another reconsidered?*

One group recommended that the site be identified by the district and the municipality with a remediation plan in hand, then the SCC would acquire it. Then, the district and the municipality should share responsibility for the selection of the site, which could go to the voters. If there's a set budget for land acquisition and the site acquisition costs exceed the cost of construction, then the voters could act by voting school board members off the board.

Another group said that they found it necessary to stop thinking about school as an isolated development, but instead as infrastructure development. They said that current ownership mechanisms and financing mechanisms do not allow for school districts to enter into long term agreements.

Another group said it would be ideal to avoid property that is contaminated, but that there are different levels of contamination and remediation is possible – but that liability should rest with the State since it owns the project and manages it. Mr. Weiner said that the State should be responsible for consequences, but that there have been instances where the SCC has acquired land that, in good faith, was said to be clean, but was not.

Mr. Weiner then moved onto the next set of questions regarding public and private partnerships. Specifically, the groups were asked to consider the following questions:

- *What kinds of joint use or mixed-use developments should be available for schools? What are respective roles of the public and private sides of the partnerships necessary to create such developments?*
- *How can schools take advantage of existing community assets (parks, boys and girls clubs, existing buildings, etc.) to reduce their need for land? How can municipalities and non-profits assist this process? How can/should the costs of such “community contributions” be shared between the district, the municipality and the State?*
- *If remediation of a site is necessary, who should bear the cost burden of this remediation – the district, municipality, State or developer? Are there ways that this burden can be shared? Are there ways that the value of improving the site can be recouped later?*

One group opened by commenting that the districts’ core competence is in education and that they shouldn’t be expected to serve as land developers too. There would need to be another entity to coordinate that effort – perhaps a local development corporation.

Another group thought there should be infrastructure credits for developers and even discussed ideas such as using air space and water space. They felt that the district should be the owner and that the SCC should be the financier.

A third group said that a developer should be able to do one-stop shopping for incentives to help maximize dollars that are already available. They also suggested pre-packaged projects that are ready to go on which developers can competitively bid. They also thought life-cycle costs should be included in the overall cost (*Mr. Weiner indicated that was in the works*). Other thoughts included going beyond municipal boundaries and creating shared school facilities between multiple municipalities.

An issue discussed during the break-out session, but not during the Plenary Session was the issue of leasing space. It was discussed that joint-use agreements could have better success if leasing payments were not paid out of school operating budgets. This would help to provide more flexibility to the program.

At the close of the Plenary Session, Mr. Weiner asked for audience feedback.

Art Griffa from the Orange School District said that the SCC needs to build confidence that it can deliver in a timely manner. He thought that the SCC should coordinate the money but that the districts should hire the architects. He also thought the SCC needs to consider air rights.

Jonathan Hodges from the Paterson Board of Education said it would be unwise to shift land acquisition to the municipalities because they cannot carry that burden. (*Mr. Weiner pointed to the information provided by Mr. Listokin in the morning and suggested that perhaps the private sector can bear some of that burden*).

Diana Petolino from the Jersey City School District thought that land banking would help reduce the cost of sites. She also thought that regardless of who manages a project, the SCC needs to ensure that the project is managed as a whole. She also thought that predictability and reliability was essential to long range planning. *(Mr. Weiner commented that prior to June 2006, there were no integrated budgets for projects; there are project budgets and project teams now including all disciplines).*

Dorothy Daniels from the Perth Amboy Housing Authority expressed disbelief that land costs were not included in the beginning and wanted to know who was being held accountable. *(Mr. Weiner commented that there are ongoing investigations and that there were well-intentioned people at the SCC who were not given the proper guidance).*