

MINUTES

**NEW JERSEY HIGHLANDS COUNCIL
MEETING OF MAY 5, 2005**

PRESENT:

JOHN WEINGART)	CHAIRMAN
KURT ALSTED)	COUNCIL MEMBERS
TRACY CARLUCCIO)	
LOIS CUCCINELLO)	
TIM DILLINGHAM)	
JANICE KOVACH)	
MIKAEL SALOVAARA)	
MIMI LETTS)	
DEBBIE PASQUARELLI)	
JACK SCHRIER)	
BEN SPINELLI)	
EILEEN SWAN)	
GLEN VETRANO)	
SCOTT WHITENACK)	

The following are the minutes from the New Jersey Highlands Council meeting which was held at Sussex County Community College at One College Hill Road, in Newton on May 5, 2005 at 4:00 p.m.

CALL TO ORDER:

The Chairman of the Council, Mr. John Weingart, called the ninth meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:10 p.m.

OPEN PUBLIC MEETINGS ACT:

Chairman Weingart announced that the meeting was called in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6, and that the Highlands Council had sent written notice of the time, date and location of this meeting to pertinent newspapers of circulation throughout the State.

ROLL CALL: The members of the Council introduced themselves.

PLEDGE OF ALLEGIANCE was then recited.

COUNCIL MINUTES (APRIL 21, 2005 meeting):

Ms. Tracy Carluccio asked for additions and clarifications to page 7, paragraph 4, where she spoke about a project in East Amwell Township.

Mr. Mikael Salovaara made a motion to approve the minutes with the suggested changes, Ms. Janice Kovach seconded the motion, Mr. Tim Dillingham abstained, all others in favor, APPROVED.

CHAIRMAN'S REPORT:

Mr. Weingart gave the public an overview of the meeting agenda and advised that public comments would be taken at two times during the meeting. He then asked Council member Mr. Glen Vetrano, Freeholder from this meeting's host county, Sussex, to say a few words of welcome.

Mr. Vetrano thanked the residents of Sussex County and college President Brad Godfrey for the use of the facility. He said that Sussex County Planning Director Mr. Eric Snyder would give an overview of the Highlands in Sussex County.

Mr. Weingart then advised within the members meeting packets, was a copy of a letter from Hunterdon and Warren Counties outlining their upcoming presentation at the next Council meeting on May 19th at Parsippany Borough Hall at 10:00 a.m. The presentation will take place in the early afternoon.

Mr. Weingart advised that at today's meeting Commissioner Bradley Campbell would be speaking about the DEP's Highlands rules which will be adopted within the next week. Thereafter, those rules will be proposed with changes and subject to public notice and comment. Once the Highlands Council receives the rules, it will have 45 days to give its input. Mr. Dante Di Pirro has developed an outline for the members to follow in submitting comments to the rules.

Mr. Weingart noted that Mr. Di Pirro's proposed schedule would have the Natural Resource Committee conduct its review of the rules, and then it will make recommendations on these rules to DEP at its June 2nd or June 23rd meeting. The Council will then forward its comments to the DEP. In the interim, the Natural Resource Committee will meet at least twice regarding rule review.

Mr. Weingart then asked if any members had reports and since none did, he then asked Mr. Adam Zellner to give the Executive Director's Report.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Zellner thanked Mr. Vetrano and Sussex County for its active participation and assistance. He noted that recent newsclips packets were in the members' packets and available to the public on the back table.

Mr. Zellner advised that productive meetings were held with the Bergen County planning staff. He also noted that staff has met with the New Jersey Appraisal Institute and that several Council members and staff had a meeting with the Hunterdon County Democrat Editorial Board. Mr. Zellner notified that Chester Day would be Saturday May 7th.

Mr. Zellner said that in the member's packets was an updated Ethics Code and that if there were any questions Mr. Di Pirro was available to assist.

Mr. Zellner then introduced Mr. Ken Rodder from the Governor's office who replaces Mr. Jason Capizzi as the staff person from the Governor's Authorities Unit assigned to the Highlands Council, as well as Ms. Christine Danis and Mr. Jeff LeJava, two new members of the Highlands staff.

Mr. Zellner then asked Mr. Tom Borden to give an update on Eagle Ridge. Mr. Borden advised that as to the DEP's outstanding water allocation permit, on April 28th the DEP issued a letter approving, in part, the outstanding water allocation permit, bifurcating the Eagle Ridge aspect of the permit. The Department has requested detailed information regarding the wells that will serve the development. Specifically, DEP is requesting aquifer testing data and stream flow data to be completed by March 31st 2006.

Ms. Debbie Pasquarelli asked how the provision of the Highlands Act concerning expiration of exemptions in October will affect the Eagle Ridge project review. Mr. Borden said that issue would probably be the basis of a lawsuit by the developer who claims that the need for additional information will result in the expiration of the Highlands exemption, and the plaintiff seeks to address the issue with the Appellate Division.

Mr. Zellner then noted that the Partnership meetings and Technical Advisory Committee meetings are coming up. He asked Mr. Steve Balzano to give an update about the Partnership meetings.

Mr. Balzano reminded that the meetings will be on May 16th, 23rd and 24th in each of the three Highlands zones. The meetings will give elected municipal officials and representatives of various boards opportunities to provide their input into the regional planning process.

Mr. Balzano noted that there will be 18 Technical Advisory Committee work groups with meetings occurring through the month of June. He advised that staff is in the process of reviewing expressions of interest in participating on the committees, and asked that if the members or members of the public had recommendations to kindly advise him as soon as possible.

Mr. Weingart then turned the meeting to the first presenter, Sussex County Planning Director, Mr. Eric Snyder.

PRESENTATION (Sussex County Planning Director):

Mr. Snyder thanked the Council for the opportunity to give a power point presentation. He advised that the Board of Freeholders designated a 17 person Strategic Growth Advisory Committee.

Municipalities within Sussex County have actively considered Highlands issues. Mr. Snyder then introduced GIS Program Manager Mr. Dave Kuntz. Mr. Snyder advised that a user friendly version of his power point presentation and other information is available on the internet.

Mr. Snyder said that the Highlands municipalities of Stanhope, Hopatcong, Byram, Sparta and Vernon have been designated centers by the State Planning Commission. They have done extensive research on Highlands resources and infrastructure.

Mr. Snyder advised that Sussex County's plan is organized similar to the State Plan. He pointed out that Sussex has lake communities which have issues that are unique and different from other lands.

Mr. Snyder noted that the Farmland Preservation Program has preserved 59 farms comprising approximately 8500 acres and that there are additional acres in the pipeline for preservation as well.

Mr. Snyder said that Sussex County supports the TDR concept to preserve equity in the Highlands region. He pointed out that there are 126,000 Highlands acres of which approximately 72,000 are in the core area.

Mr. Snyder said he looks forward to working with the Council in the future.

Ms. Mimi Letts asked how much land is vacant with regard to the preservation area in Sussex. Mr. Snyder responded it is approximately 11,000 acres.

Mr. Weingart thanked Mr. Snyder and then opened a public comment period.

PUBLIC COMMENT:

John Kasher, Independence Township, Warren County. He advised that he owns a 9.2 acre farm at the base of a mountain which was formerly the Petersburg Reservoir area. He noted that his farm has been adversely affected by storm water runoff and flooding. Mr. Geoff Knapp of Highlands staff has met with him to review his farm. He said that the DEP has advised him that local government handles municipal storm water issues. He noted that the town has not effectively addressed the issue to date.

Scott Olsen, Byram Township. He is a former member of Byram Township Smart Growth Task Force and local activist group North Byram Concerned Citizens. He expressed his concern regarding a proposed DOT project on Route 206. The project

seeks to widen the road from two to five lanes through Byram's designated village center. Mr. Olsen submitted a document opinion piece he wrote to the Department of Community Affairs Office of Smart Growth. Mr. Carlos Rodriguez of the Office of Smart Growth responded to Mr. Olsen via email that he felt the DOT Route 206 widening project was not an effective smart growth approach. He asked the Council to adopt a resolution to request review of the project.

William James Rickey, Vernon. Mr. Rickey owns a farm in the preservation area. He asked for the Council's assistance in considering alternative activities on his farm. Mr. Rickey expressed concerns about landowners being penalized for having held onto their land.

William Ritzer, Vernon. He noted that drainage on the west side of the Hamburg Ridge flows into the Wallkill River then into the Hudson to New York. Mr. Ritzer asked why it was decided that the west side of the ridge is in the core area. Mr. Weingart asked Mr. Ritzer to stay and speak with staff to discuss the issue.

David Shope, Long Valley. Mr. Shope noted an article from Lancaster Farming which notes that legislators are proposing to the Pennsylvania Legislature exempting the capital gains tax from land sold into preservation. He also noted a water tax which was proposed and passed by the State Senate, but held up by the State Assembly of \$3.20 per family annually which would raise \$15 million per year.

Damian Newton, New Jersey Coordinator for the Tri-State Transportation Campaign. He noted that citizens in Byram have asked him to attend the meeting regarding the DOT Route 206 project. Mr. Newton expressed that the NJ Fit Program uses smart growth approaches and strategies to remedy transportation issues.

Tina Bologna, Byram Township. Ms. Bologna questions the need for the project on Route 206. She notes that road widening projects encourage more traffic and essentially do not remedy the problem of roadway congestion. She has requested that DOT review the project with Highlands issues in mind.

Dave Watson Hallowell, Hewitt. He advised that he attended the meeting to express thanks to the Council and to Commissioner Campbell for taking action as to the Eagle Ridge development.

Mr. Weingart then introduced Commissioner Bradley Campbell.

PRESENTATION (DEP Commissioner Bradley Campbell):

Commissioner Campbell thanked the Council and advised that he would be speaking about the DEP's Highlands rules which will be adopted and available on May 9th.

Commissioner Campbell advised that the Department considered three main principles in developing the rules. First and foremost, is the protection of Highlands water resources.

This principle encompasses the effects on septic density, steep slopes, as well as threatened and endangered species in the Highlands region. The Department has worked to develop protective standards through scientific analysis.

The second principle the DEP sought to reinforce is the partnership between the Council and the Department. Commissioner Campbell noted that since the rules are being initially adopted as interim rules, the input and views of the Highlands Council will be paramount to the rules' effectiveness in achieving specific Highlands goals.

Commissioner Campbell advised that the third principle the Department followed was to have the regulatory process reinforce the planning process. The Department has worked to ensure that the regulations do not undermine the Council's objectives as the Highlands Regional Master Plan is being developed.

Commissioner Campbell noted that the legislation is highly prescriptive in certain areas such as rare species and steep slopes, and looks to the Council for its input. He noted that the DEP will also look to the Council for its input as to how to structure public hearings.

Commissioner Campbell advised that the DEP is currently keeping pace with willing sellers within the Highlands.

Commissioner Campbell said that the DEP has not received inquiries or complaints to date from lobbyists or counties regarding the regulations. He asked that if the Council has been so contacted to advise him so that their concerns and/or complaints can be addressed.

Commissioner Campbell noted that the Department is receptive to working with the Council to facilitate implementing the plan. He then advised he would answer any questions the members have.

Mr. Jack Schrier thanked the Commissioner for attending and for promoting the Council's involvement in the regulatory process. With regard to the issue of inadequate funding to acquire Highlands lands, Mr. Schrier noted that the land acquisition process will be lengthy and that a number of funding sources will be needed. Mr. Schrier also stated that the Council appreciates the opportunity to be involved in the deliberative process.

Commissioner Campbell said that the Department has not had to turn down offers from any willing seller because of the amount of funding currently available, but added that he will actively monitor the availability of funding for land acquisition.

Chairman Weingart thanked the Commissioner for his role in promoting partnership with the Highlands Council and expressed his appreciation for the 45 day rule review period granted to the Council. He asked the Commissioner to clarify what the process would be for the public wishing to express opinions regarding the rules.

Commissioner Campbell advised that the public could register their comments via the internet on the Department's website. Due to the statutory schedule the Department will not be able to respond to individual comments but it will review all comments received.

Mr. Tim Dillingham noted the open availability of the Department's staff and thanked the Commissioner for giving the Natural Resource Committee the ability to work closely with Department staff.

Commissioner Campbell said that the early input of the Council has helped the Department. The DEP has revised the costs required for permit fees with regard to homeowners and municipalities.

Ms. Eileen Swan noted with regard to the Commissioner's reference of the preservation programs keeping up with willing participants in the preservation area that in the case of Hunterdon County that is not the case. She stated that Hunterdon County is not funding its portion of farm preservation in the preservation area and in fact reneged on farms that had applied in 2001. As Hunterdon County continues to deny funding it means that there is now no county program for farm preservation in the Hunterdon County preservation area. She further noted that Farm Bureau representatives stated that this was clearly wrong but have yet to take an official position. She asked the Commissioner his opinion.

Commissioner Campbell stated that he agreed with Ms. Swan and that County and local open space funding is key to the process.

Chairman Weingart thanked Commissioner Campbell for his presentation and then turned the meeting to the Committee reports.

COMMITTEE REPORTS:

Mr. Tim Dillingham reported that the Natural Resource Committee has worked on the regulations, and has also evaluated and compiled a list of potential stream candidates for Category 1 ("C1") status. Mr. Dillingham advised that C1 classification is a protective mechanism which protects high quality water bodies. Mr. Dillingham noted that the Committee will continue working with the New Jersey Water Supply Authority in analyzing these water bodies.

Next, Ms. Debbie Pasquarelli reported on the Budget and Finance Committee. She advised that on April 28th the Committee met and developed with staff standard reporting documents for expenses that have been incurred and financial processes. She noted that by the next meeting the Council will receive two documents each month. First will be the list of expenses paid, and second a budget report. The operating budget for fiscal year 2005 was \$2,267,482.00. As of April 30th the Council has used approximately 60% of that budget on start-up costs and payroll. For next year it is anticipated that the appropriation will be \$2.9 million. Start-up costs will be largely completed however payroll costs will be higher. Over the course of the next few months the Committee will develop budget allocation for anticipated expenses for fiscal year 2006, such as outsource

expenses. Ms. Pasquarelli noted this may be challenging because we are currently in the needs assessment stage.

Ms. Pasquarelli advised that a summary sheet is also being compiled identifying all funding sources related to operations: 1) appropriations received from the State; 2) property tax stabilization and planning grant funds; and 3) TDR bank.

Ms. Pasquarelli reminded that in April a draft of the travel expense reimbursement policy was circulated. She asked for any comments on the draft as the Committee will be finalizing and presenting it to the full Council within the next month.

Chairman Weingart then reported on the Plan Draft Committee. He said in attendance at the Committee's first meeting were six Council members and one member from the public. He noted that as Mr. Balzano advised earlier, the Committee met and discussed the formation of the Technical Advisory Committee list. The goal is that the 18 working groups be comprised of approximately 20 people each. The Committee is currently analyzing and forming each group and welcomes any nominations for potential participants.

Chairman Weingart then noted the committee included a resolution in the members' meeting packet concerning the possibility of placing the New Jersey Water Supply Authority on retainer to provide the Council with technical assistance and advice. The resolution would provide for a Memorandum of Agreement between the NJWSA and the Council, wherein no more than \$50,000 would be committed to the NJWSA for its assistance. Chairman Weingart asked if there were any comments on the resolution.

Mr. Jack Schrier made a motion to approve the resolution, Ms. Swan and Ms. Letts seconded the motion.

Mr. Mikael Salovaara asked whether the \$50,000 could be reduced to a smaller figure initially and as expenses are incurred, perhaps reviewed on a monthly basis. Chairman Weingart advised that to date the New Jersey Water Supply Authority has already provided services at no cost to the Council and that the figure is roughly based on their amount of assistance.

Ms. Swan asked whether Mr. Balzano could clarify since he has been working with Mr. VanAbs from the NJWSA. Mr. Balzano advised that Mr. VanAbs has been very generous with his time and his expertise has been vital. He noted that the "not to exceed \$50,000" figure would be implemented on a task order agreement. Mr. Di Pirro advised that Director VanAbs would be compensated at a basis of \$50 per hour, and that the Memorandum of Agreement provides for monthly accounting from NJWSA. Mr. Di Pirro added that if at any point the Council felt the expenses were excessive, the contract would be terminated.

Mr. Salovaara made a motion to amend the resolution to provide for \$10,000 to NJWSA which received no second.

Ms. Letts asked that the motion made by Mr. Schrier be amended to include a fee schedule for NJWSA services. Mr. Dillingham also expressed that a fee schedule would be helpful. Mr. Di Pirro noted that he had a copy of the breakdown of rates which he then provided to the members.

Mr. Schrier amended his motion to include a fee schedule, Mr. Vetrano seconded the motion, Mr. Salovaara opposed, all others were in favor, APPROVED.

Mr. Weingart, summarizing comments from a number of Council members, asked that staff ensure that when the Council is presented with future draft resolutions, they include more supporting data, particularly concerning finances.

Mr. Weingart then opened a public comment period.

PUBLIC COMMENTS:

Jane Bracken. Ms. Bracken asked if the Council would be functioning as a planning board. She further asked whether the State has devised a formula for reimbursing towns for land which is not developed in the Highlands. Ms. Bracken is concerned about property taxes being raised due to the regulations.

Mr. Zellner advised that the Municipal Property Tax Stabilization Fund would be the mechanism to prepare and address property tax issues. It is funded in part by a \$12 million annual appropriation to be administered by a 3 person Board appointed by the Governor. The Board will receive and analyze incoming inquiries and forward its recommendation to the Department of Treasury.

Rick Hughes, Lafayette Township. Mr. Hughes is a member of the land use board. He advised that a developer has proposed a development in Sparta which would drain a 10 acre pond in Lafayette. The pond has been there for 90 years. Mr. Hughes said that the DEP has approved 12 dams to be breached by landowners, however a permit has not yet been received from DEP for this development. The pond is adjacent to the planning area, just outside the Highlands area.

Jeff Tittel, Sierra Club. Mr. Tittel advised that the Sierra Club has filed two lawsuits, one on regarding a center in Sparta and one in Vernon because. Sierra believes proper environmental analyses were not conducted. Mr. Tittel is also concerned about the contract with NJWSA. He hopes that the NJWSA does not receive an unfair advantage over other water companies.

John Carofello, Andover Township. Mr. Carofello is the former mayor of Andover and has worked with County planners in support of a strategic growth plan. He noted general land value concerns in Andover. A main concern in the town is that it does not wish to become a dumping ground for TDR.

Doug Tivella, consulting forester. Mr. Tivella reminded that Commissioner Campbell stressed partnership between the Council and the Department. He asked that the Council consider landowners who preserve their lands, and also asked that regulations on the land not be too strict due to threatened and endangered species.

Eskel Davidson, Byram Township Mayor. Mr. Davidson noted that Byram Township is the Township of Lakes and has 17 lakes. Byram Township has been actively involved in water conservation over the years. He believes there are two sides to the Route 206 expansion. Mr. Davidson advised that it is a one mile widening. He noted that local officials have endorsed the project.

Michael Natale, Mountain Ridge Estates Development. Mr. Natale said he is a developer and that he personally owns 106 acres of land in the preservation area in Sparta. He attended a meeting in Trenton in April or May of 2004 to voice his opinion about his unhappiness over the passage of the Highlands Act. He also purchased land in Lafayette which is outside of the Highlands. He believes lands should be preserved but not at the expense of the residents.

Michael J. Nowell. Mr. Nowell said he represents a residents' coalition which is fighting a senior housing development in Lake Hopatcong. In spring 2004 residents noticed uprooting of hundreds of trees on a pristine piece of property. Mr. Nowell noted that the property is approximately 300 acres in the planning area with one third of the area being wetlands. Mr. Nowell asked that the Council establish a task force to take further look at lands for possible preservation.

Mr. Weingart noted that after the Highlands Regional Master Plan is adopted in June 2006, municipalities in planning areas may choose to come into compliance with the Plan. He asked that Mr. Nowell speak with Council staff to give specific information as to the location of the property.

Wilma Frey, Highlands Coalition. Ms. Frey advised that the development which Mr. Nowell spoke of is the Village Grande development in Lake Hopatcong. The proposed development is on a small mountain which is primarily steep slopes and has 30% wetlands. This area should have been in the preservation area as it is a critical part of the planning area. Ms. Frey noted that the Highlands Coalition is supporting Byram Township in its efforts to improve the planning process along Route 206. She advised that the 206 project should follow the process adopted for the Route 57 project.

Ms. Carluccio asked Ms. Frey to clarify the difference between the processes for the two road projects. Ms. Frey said that the Route 57 project differs from the 206 project partly because it is more recent. The planning of the Route 57 project began with outreach and local planning meetings. She further noted that the corridor was considered as a whole, and not just on a transportation basis.

Jim Oscovitch, Byram Township Town Council. Mr. Oscovitch noted that the town council passed a resolution in support of the Route 206 project. He stated that language

in the resolution points out the process which the DOT will utilize in going forward with the project. Mr. Oscovitch advised that a meeting will be held on May 10th at Byram Lakes School with the DOT. He invited the Council staff to attend.

Bill Wolfe, West Amwell. Mr. Wolfe said he is pleased that the Council has set up a process for public input and Council review of the DEP's interim rules. Mr. Wolfe believes 45 days may not be enough for the Council to fully review and comment on the DEP's Highlands rules. He suggested that the Council ask DEP to delay issuance of the rules until it can determine whether they contain provisions which he believes would be inconsistent with the Act. Mr. Wolfe asked that the Council address two issues with regard to the rules: redevelopment waivers within the preservation area, and the interpretation of linear development. He asked the Council to consider these two issues in public or in Executive Session.

Mr. Weingart advised that the Council would consider these issues during the 45 day review period.

Jack Guerin. Mr. Guerin noted that he has attended Council meetings in the past and that he wished to reinforce his concerns regarding the need for stable funding sources. He was advised by the DEP that his property could not be purchased for lack of funds. He asked the Council for its assistance.

Mr. Weingart advised that Mr. Guerin should speak further with Council staff to determine what could be done with regard to his property. Mr. Zellner advised that he would follow up with Mr. Guerin.

Terry Kern, Pohatcong Township. Mr. Kern purchased 70 acres on which to build a home, and also subdivide two lots. He asked the Council when TDR would be occurring.

Mr. Weingart asked Mr. Kern if he had spoke to Council staff regarding his land. Ms. Pasquarelli requested that Council staff follow up with Mr. Kern because he contacted her the week before, and informed her that his local farmland preservation group told him there was no funding available.

Matt Smetana, Sparta. Mr. Smetana advised he has a similar situation to Mr. Natale. His property is 6 acres and he wished to subdivide. Mr. Smetana applied and received an exemption in October, however was advised that he could not subdivide the property. Mr. Smetana asked the Council why subdivision is not allowed.

Mr. Zellner asked Mr. Smetana, if possible, to kindly copy the Highlands Council on any future correspondence he receives from agencies, and also to provide him with any prior documentation he has.

Kathleen Carin, West Milford. Ms. Carin stated that she believes the Highlands bill was not rushed. She stated that if New Jersey doesn't protect its water resources the costs for building water treatment facilities would far outweigh the costs of preserving the land

today. Ms. Carin said that she is aware of someone who is donating their land to an organization who will set up a tax free annuity for the landowner.

Nancy Mandeval. Representative of Save Andover Borough, a grass roots organization. She advised that a 590 unit development is proposed on the land which is limestone and steep slope. She believes that the land is not suitable for development and it should not be a town center.

David Shope, Long Valley. Mr. Shope stated that he concurred with Mr. Tittel's reservations on contracting with the NJWSA. He stated that the NJWSA's job is to provide inexpensive water to customers. Mr. Shope said that land has been de-valued over the years due to environmental regulations.

William James Rickey, Vernon. Mr. Rickey advised that his family settled his land before the Revolutionary War. He thought there should be an exemption to families who have owned land since before this Country was formed. Regarding appraisals, he thought that equity is not preserved under the law. He further advised that he has encountered problems and disparities with the State over the boundaries of his land.

Bill Wolfe, West Amwell. Mr. Wolfe noted that the Commissioner spoke earlier about partnership between the Council and the Department. Mr. Wolfe said there is broad latitude in the redevelopment waiver which will apply in the preservation area and he is concerned. He asked how to engage the Council in substantive dialogue.

Ms. Carluccio noted that Committee meetings are public and afford the opportunity for open dialogue. She reminded that the Committee meeting dates and times are posted on the Council's website.

Mr. Weingart notified that on May 12th, the Natural Resource Committee would be meeting and also that the next full meeting of the Council would be May 19th at 10:00 a.m. at the Parsippany Borough Hall.

ADJOURN:

Mr. Vetrano made a motion to adjourn, Ms. Kovach seconded the motion, all were in favor, meeting ADJOURNED at 7:00 p.m.