

**New Jersey Highlands Council  
Chair Report for Plan Development Committee  
Meeting of September 15, 2005**

On September 15, 2005, the Plan Development Committee held a meeting at the Highlands Office in Chester. Notice of the meeting was provided to the public on the Highlands Council's web site. Council members present at the meeting were: John Weingart, Chair, Jack Schrier, Ben Spinelli, Tim Dillingham, Eileen Swan, Lois Cuccinello, and Debbie Pasquarelli. Council staff members present were: Adam Zellner, Dante DiPirro, Tom Borden, Steve Balzano, and Maryjude Haddock-Weiler.

The agenda items were: policy issues, consultant contracts and initial outline for the regional master plan.

Partial opt-in

The policy issue for discussion regarding partial opt-in involves the question whether a municipality or county should be allowed to opt-into the Regional Master Plan for only a certain geographic portion of the town or county. After discussion of the issue, the sense of the committee was that neither the intent of the Act nor sound policy consideration should allow a municipality or county to pick and choose which portion of its geographic area it would seek to opt in. Committee members envisioned that the Council could not properly implement of the benefits of opting in, such as eligibility for grants, the legal shield, and plan endorsement if only part of the town or county was considered consistent with the Regional Master Plan. The Committee's view is that plan conformance in the Planning Area is voluntary, but if a town or county chooses to seek to opt in, it should be for its entire area. However, this is an issue that should be more fully articulated and documented and then discussed at future Committee meetings and with the full Council.

Mandatory versus Voluntary Standards

The policy issue up for discussion is the distinction between mandatory and voluntary standards in the Regional Master Plan (RMP). The suggested policy is to declare that certain elements of the RMP will be mandatory elements in the plan conformance process whereby municipalities and counties would be required to incorporate these elements into master plans and land use ordinances. These elements would involve the critical resource protection elements identified in the Highlands Act. Conversely, other elements would be either entirely voluntary, such as the acceptance of TDR receiving area, or would involve the selection of various options for plan conformance. In other words, there would be a range of choices, in the plan conformance process between elements that would be mandatory and elements that would be entirely voluntary. To be consistent with the mandates of the Highlands Act, the mandatory elements would be those that are required as a result of the RMP's resource assessment to sustain the ecosystem of the Highlands. On the other end of the spectrum, the RMP would include voluntary elements relating to receiving areas, redevelopment areas, or other areas which are not significantly constrained.

Without reaching a firm conclusion, the members reached a consensus that this approach was appropriate, and should be more fully described and documented, given the language of the Act mandating the protection of natural resources while encouraging growth in appropriate areas.

Eileen Swan underscored that legislative intent to protect the environment and avoid any mandatory growth.

John Weingart pointed out that there are members of the public who are concerned that there will be no room for growth within the Highlands. The Council will need to develop a procedure to address these concerns.

Ben Spinelli stated that this approach would eliminate the false perception that the Highlands Act mandates growth, would squelch those that claim the Act has a hidden growth mandate, and would go a long way to encouraging municipalities to "opt-In" and thereby comply with the intent of the Act. He suggested that the Council would need to identify a mechanism or series of programs that would be stronger than simple incentives in order to guide planning decisions at the municipal level. By "painting a picture" for the towns that they like and can support, municipalities will be more likely to work in concert with the Council.

Debbie Pasquarelli stated that the approach would close the real concern that there is a "back door" that exists, though a combination of forcing including the State Plan and COAH requirements, to force unwanted growth into municipalities.

Jack Schrier pointed out that what happens outside the Preservation Area will impact what happens inside the Preservation Area. The Council needs to provide good guidance for what should happen in the Planning Area of the Highlands.

Tim Dillingham noted the importance of the plan providing standards for environmental protection even in areas where growth is deemed appropriate. Mr. Balzano stated that the approach under consideration would include mandatory resource protection standards even in areas considered appropriate for growth but that these standards would vary depending on the nature of the underlying resources.

John Weingart noted that if the Council chooses to allow opt-in for just the environmental standards, a municipality could adopt all of the environmental standards, but not adopt any of the smart growth standards. If the Master Plan were to identify an area of a town as being appropriate for redevelopment, the voluntary nature of the smart growth standards would allow a town to opt-in to the Master Plan, but choose not to redevelop that particular area using smart growth techniques.

John further explained that, with this option, towns would not have to accept any development within their borders, but any new development that they do accept would

have to meet the environmental and design standards provided in the regional master plan for that new development.

Adam Zellner elaborated that the smart growth components would have to focus on education and helping municipalities to implement a well-conceived vision for their towns. He also noted that transportation planning would have to be taken into account as the Council considered the appropriate policy in this area.

Tim Dillingham pointed out that the Council will need more specific information before ultimately signing off on policy decisions, since the cumulative effect of all policy decisions will determine the final effects.

Dante DiPirro explained that the Plan Development Committee provided staff with policy guidance so that the plan can be developed but that strictly speaking policy decisions are ultimately finalized when the full council votes on adoption of the plan in June 2006. Staff will continue to present issues to the Plan Development Committee (the more sophisticated ones by white paper). The Committee will provide policy guidance so staff can obtain quick direction and development of the plan will not be delayed. The full council will be regularly briefed (by copies of the white paper and by committee reports at council meetings). That will enable input and adjustment as appropriate by other members of the Council.

Some members felt that it might be helpful for formal resolutions to be prepared for the full council on the policy issues. Others felt that white papers would be preferable.

John Weingart asked staff to prepare both a white paper and a resolution on the policy issues discussed at this meeting for consideration by the Committee and then the full Council both to continue the discussion and the process for making policy decisions to enable the plan to go forward.

#### Sewer capacity

The issue of sewer capacity addresses whether the planning should characterize sewer capacity as defined by available capacity, designed capacity or assimilative capacity.

It is the opinion of staff that while assimilative capacity is important for planning, this data can not be developed in time for the June 2006 plan. Staff recommends that we develop the plan based on the best available data about available and design capacity, and that we also begin now to develop assimilative capacity data, so that it will be ready later in 2006 and thereafter can be included into the plan via amendment.

#### Consultant Contracts

Staff next presented on the next round of recommended contracts. There are three types of consultants being considered: (1) State agencies; (2) professional services that under

State rules generally do not require competitive bids; and (3) non-professional services contracts that are generally subject to competitive bidding.

The Committee agreed to the obvious, that selection of all consultants should follow the applicable State procedures and requirements. Thus, private professional contracts should follow a Request for Qualifications (RFQ) process. Staff will prepare an RFQ and accept qualifications from two entities in order to be sure our choice is the most qualified. For non-professional services (like desktop publishing), staff will start preparing to get bids.

#### Outline for the Regional Master Plan

Staff presented an outline setting forth further details (from last time) on the format and overall content of the regional master plan.