

**NEW JERSEY HIGHLANDS WATER PROTECTION
AND PLANNING COUNCIL
MINUTES OF THE MEETING OF OCTOBER 4, 2007**

PRESENT

JOHN WEINGART)	CHAIRMAN
ELIZABETH CALABRESE)	COUNCIL MEMBERS
TRACY CARLUCCIO)	
BILL COGGER)	
TIM DILLING HAM)	
JANICE KOVACH)	
MIMI LETTS)	
ERIK PETERSON)	
JACK SCHRIER)	
TAHESHA WAY)	
SCOTT WHITENACK)	

VIA TELECONFERENCE

DEBBIE PASQUARELLI)

ABSENT

KURT ALSTEDE)
GLEN VETRANO)

CALL TO ORDER

The Chairman of the Council, John Weingart, called the 55th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:05 am.

ROLL CALL

The members of the Council introduced themselves.

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 or circulation throughout the State and posted on the Highlands Council website.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF MINUTES OF SEPTEMBER 20, 2007

Mr. Schrier introduced a motion to approve the September 20, 2007 minutes. Mr. Cogger seconded it. Mr. David Shope, a member of the public, asked that his direct comments be reflected in the minutes. The minutes were APPROVED by all members present with an abstention by Ms. Pasquarelli.

EXECUTIVE DIRECTOR'S REPORT

Ms. Swan discussed that work is continuing on the next generation Highlands Regional Master Plan (RMP). Staff has worked with Siemon and Larson on the Vision Statement to include comments received from Council, State Agencies and members of the public at the last Council meeting.

Staff also worked on the Goals Policies and Objectives (GPO) in preparation for this meeting. These GPOs are a refining of those in the November 30 released draft RMP. The refinements are as a result of the many comments received and the need to make them easier to read and implement.

Staff has continued to work on the spatial analysis of exemptions in anticipation of having them mapped for the release of the next generation plan. The LANDS model continues to be tested and refined and the original indicators assessed for any duplication. The additional indicators discussed at the policy issues Council meeting are also being added and tested.

Ms. Swan continued her remarks saying that all public comments are considered ground truthing of the RMP. She discussed the septic density approaches that have been researched working with staff and the consultant Demicco and Associates and that in the GPO's there are targets for nitrates. She went on to comment that for the October 18 meeting, there will be more work on septic density including additional capacity studies, that work will continue on the November 1st meeting.

She continued her report reviewing the TDR grant received from Clifton which is in the information distributed along with a resolution for consideration.

Other highlights included the submission of paperwork for four of the open FTE positions and one of the part-time positions to officials in Trenton for approval.

Ms. Swan summarized the first meeting with the newly hired financial consultant, Greg Della Pia, and said that his recommendations to the Budget and Finance Committee would be forthcoming and that Audit Committee meetings would be set up. Ms. Swan asked that the information for the next Council meeting on October 18th will be sent to Council members Tuesday evening because of the holiday October 8th. Ms. Swan then provided the following recap of the committee and outreach meetings:

Committees:

September 20 – Natural Resources Committee Meeting

October 4 – Agency Coordination Committee

Municipal and County Outreach:

September 24 – Hackettstown - Council staff provided an overview of the draft RMP (Council staff Swan and Borden)

September 25 – West Milford – Council staff met with town officials, the MUA and NJDEP to discuss WMP coordination.

Ms. Swan acknowledged that Glen Schweizer, Executive Director of Morris County MUA, was in the audience and offered to meet with that organization.

October 1 – Califon - Council staff provided an overview of the draft RMP (Council staff Swan)

Constituent Outreach

September 25 - Council staff met with Jack Inglesino and Stan Omland to discuss the impact of the draft RMP on properties in Morris County. (Council staff Swan and Borden attended)

State and Federal Agency Coordination:

September 21 – Smart Growth Policy meeting (Council staff Borden)

September 26 – Council staff attended the Plan Implementation Committee meeting of the State Planning Commission (SPC). (Council staff Borden) There will be another meeting October 24th to discuss the MOU with the SPC, the Office of Smart Growth, and Highlands Council.

Stakeholder Coordination:

September 26 - Chairman John Weingart attended a meeting with Ms. Swan and David Grant and Michelle Knapik of the Dodge Foundation.

Upcoming Meetings and Outreach:

October 1 – Califon Borough

October 9 – Union Twp

October 10 - Givaudan Fragrances Corp. (Mt. Olive)

October 11 – TDR Committee

October 12 – ANJEC Congress

October 16 – Somerset County

Ms. Swan reviewed a current bill sponsored by Senator Smith S-2677 that was to be discussed by legislative committee today, but it was postponed. The two issues brought forth: 1) eliminate the yearly income requirement for any woodland owner who upgrades from a standard Woodland Management Plan to a Forest Stewardship Plan. This bill will allow woodland owners to engage in habitat restoration, endangered species enhancement, invasive species control, deer control, and forest regeneration projects; Ms. Swan pointed out that Council member Carluccio had added this as a comment to the Goals, Policies and Objectives. The other issue addressed by the bill 2) requires that all Woodland Management Plans on private land must eventually be upgraded to Forest Stewardship Plans. Under the current Woodland Assessment program structure, a generous property tax break provided by

public tax dollars encourages improper management of forestland. This needs to change so that the tax break specifically rewards actions that further the public's investment in sustainable forestry and natural resource management.

Chairman Weingart announced that the meeting time for the October 18th meeting will remain at 10 am and that Ms. Kovach had joined the meeting. He recognized Jim Gilbert, the first chairman of the State Planning Commission, who was in the audience. In reference to the list of Council sub Committees he mentioned that Beth Gates is an ex-officio member of the Audit Committee on loan from the NJ Water Supply Authority. He asked if members would like to join any of the committees they should advise him.

COMMITTEE REPORTS

Chairman Tim Dillingham gave a report from the **Natural Resources Committee** that met September 20, 2007. Mr. Dillingham provided an overview of the agenda items were reviews of two Water Quality Management Plans/Wastewater Management Plan proposals for Heritage 55 and Mine Hill. Discussion ensued that resulted in staff review of consistency of proposals in draft RMP that brought forward significant issues with water supply and consistency with the proposed disturbance of Highlands Open Water Protection Areas and Riparian Areas. Recommendation of the staff was to deem both of the applications as inconsistent with the RMP. The Committee voted to forward those recommendations to the full council hopefully, at the next council meeting. There was a request from the Mine Hill applicant to give additional information to the staff. Ms. Swan did say that additional information would be accepted, but that the caveat would be that the information had been or will be shared with DEP to ensure consistency. She commented that both applicants intended to send additional information and Mine Hill applicant filed an OPRA request which was complied with. She reiterated that the charge of the Highlands Council review is to review what DEP has so she wants to work closely with DEP after receipt of the information.

Chairman Weingart suggested that he discuss with Ms. Swan and Mr. Dillingham after the meeting to coordinate when these matters would be ready to bring to the full Council. Mr. Schrier wanted to be sure that the information was shared prior to the Council taking action. Mr. Dillingham confirmed that the DEP was the primary contact not the Highlands Council. He said that the degree of conflict is so great with the RMP that there was not a lot of room to resolve these conflicts.

Mr. Dillingham also complimented that staff development of draft standards for scenic resource and that public comment is currently being solicited by October 25, 2007. Ms. Carluccio wanted to be sure that the staff could reevaluate the additional information submitted and bring that forward to the Natural Resources Committee.

Chairman Schrier gave a report from State and Federal Agency Coordination. He reported that Ben Spinelli, Executive Director of Office of Smart Growth (OSG) attended. He reviewed the coordination efforts between Office of Smart Growth, TDR and Highlands Council and the redevelopment approvals and grants. They discussed current town centers and their designation and expiration of that designation. These matters are being incorporated in a draft MOU between the SPC, OSG, and the Council. The draft MOU

would be brought to the Council after the SPC's Plan Implementation Committee meets to discuss the matter.

CONSIDERATION OF RESOLUTION TDR RECEIVING ZONE FEASIBILITY GRANT – CLIFTON

Ms. Swan reviewed the application indicating that the request was for \$40,000 for citywide analysis exceeding the standard grant amount of \$25,000. Ms. Swan discussed the fact that the grant application submitted by Dennis Kirwan included an analysis and basis for the proposed grant. At a hearing on the bill for statewide receiving areas, Mr. Kirwan had testified that Clifton was planning on requesting grant monies to participate. Staff analysis has resulted in a recommendation for the Council to approve this grant. Ms. Swan also reminded members that \$1,000,000 had been set aside for this work in all of the municipalities in the seven counties across the Highlands Region. Mr. Whitenack introduced a motion to approve the resolution and it was seconded by Mr. Dillingham.

Ms. Letts asked if the staff knew the amount of undeveloped land in Clifton, and Ms. Calabrese commented that there was the possibility of redevelopment areas there.

PUBLIC COMMENT

Mr. David Shope asked if any part of the grant money would be used for downzoning for 5 units per acres. He was advised that these funds will not be used for that purpose.

All present voted in favor with one abstention by Ms. Way. The resolution was APPROVED.

Chairman Weingart complimented the staff for the two week turnaround and Ms. Swan complimented Jeff LeJava for his work on this project. Mr. Whitenack reminded the Chair that the TDR committee is meeting October 11th at 4 pm.

DISCUSSION OF GOALS, POLICIES, AND OBJECTIVE FOR THE REGIONAL MASTER PLAN

Ms. Swan began the presentation saying that this will be approached with a power point summarizing the goals and issues.

She noted that the document distributed today includes changes to incorporate comments from Council members.

Mr. Siemon said that 70% of the substance of the new document were in the November 2006 draft of the RMP He reviewed the building of the linkages for the plan. There is a new table of contents tracking as presented. Ms. Swan noted that the numbering will be simplified, but has been used for ensuring that duplication was taken out. Ms. Swan then discussed the following from the PowerPoint presentation.

Highlands Forest Resources Introduction

- **Provide essential ecosystem functions;**

- Provide surface water filtration;
- Serve as habitat for plants and animals and are critically important to the maintenance of biodiversity;
- When managed for sustainable use, forests can be a source of renewable wood products.

The Regional Master Plan acknowledges activities exempted through an approved woodland management plan and the normal harvesting of forest materials in accordance with a Forest Management Plan approved by the State Forester under N.J.S.A 13:20-30(7). Beyond exempt forestry activities, the Highlands Act mandates that the Regional Master Plan provide for the protection of the Region's forests.

Mr. Siemon reviewed the following key goals for this natural resources area:

GOALS

PROTECTION OF LARGE AREAS OF CONTIGUOUS FORESTED LANDS OF THE HIGHLANDS REGION TO THE MAXIMUM EXTENT POSSIBLE.

PROTECTION AND ENHANCEMENT OF FORESTS IN THE HIGHLANDS REGION.

CONFORMING MUNICIPALITIES AND COUNTIES INCLUDE FOREST PROTECTION PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS

Ms. Carluccio asked whether the forest management plan was protective enough in light of previous discussions. Ms. Swan clarified that this portion is in response to comments received from the NJ Forestry Association. The policy follows the exemption. Ms. Carluccio wanted to know if there could be a staff effort to develop a Highlands Forestry plan and this could be post plan adoption. Ms. Swan said that there could be effort in that regard but advised that the NJ Forestry Association had commented on this very issue.

Chairman Weingart asked how comments that had been received were included. Ms. Swan said that acknowledging the forestry exemption was a step in response and goals, policies, and objectives were added for other non forest related lands. The GIS layer was also adjusted for only forested lands.

There was an additional discussion regarding tree farms and also the use of tree ordinances in municipalities. Ms. Swan commented that these model ordinances would be put in the appendix to ensure that there was some consistency with the forestry practices and also some flexibility in municipalities using their own. The focus is that tree ordinances should be consistent with forestry, and that in community character tree cover is increasingly important according to Mr. Siemon.

Highlands Open Waters and Riparian Areas Introduction

The Highlands Regional Master Plan focuses on four areas of action to address the need to protect, restore, and enhance Highlands Open Waters and Riparian Areas:

- Identify and inventory each type of resource area;
- Evaluate the integrity each type of resource area;
- Establish resource protection measures;
- Establish programs to promote consistent standards for the protection, restoration and acquisition of important waters and riparian areas of the Highlands Region.

GOAL

PROTECTION, RESTORATION, AND ENHANCEMENT OF HIGHLANDS OPEN WATERS AND RIPARIAN AREAS.

Mr. Siemon commented that the definitions will be pulled out and there was discussion on where definitions would be placed in the plan.

Steep Slopes Introduction

Steep slopes serve many roles including:

- Ecological;
- Recreational;
- Scenic;
- Functional.

Disturbance of areas containing steep slopes can be problematic:

- Erosion and sedimentation;
- Disturbance of habitats;
- Degradation of surface water quality;
- Silting of wetlands;
- Alteration of drainage patterns.

The identification and classification of steep slopes is important in order to effectively manage critical natural resources in the Highlands Region.

GOAL

PROTECTION AND ENHANCEMENT OF THE NATURAL, SCENIC, AND OTHER RESOURCES OF THE HIGHLANDS REGION BY PROTECTION OF STEEP SLOPES FROM INAPPROPRIATE DEVELOPMENT.

Ms. Carluccio addressed a question regarding moderately constrained lands. Mr. Siemon said there was no substantive change and no intended change to this policy and Mr. Siemon will check.

Ms. Swan said there are some changes in the following section.

Critical Habitat Introduction

Biodiversity is the variety of plant species, animal species, and all other organisms found in a particular environment and is a critical indicator of ecological viability.

The Highlands Regional Master Plan seeks to protect: rare, threatened, or endangered plant

and animal species of the Region.

There are three categories of critical habitat:

- 1) Critical Wildlife Habitat (habitat for rare , threatened or endangered species);
- 2) Significant Natural Areas (regionally significant ecological communities);
- 3) Vernal Pools (confined, ephemeral wet depressions that support distinctive [and often endangered] species that are specially adapted to periodic extremes in water pool levels).

GOALS

PROTECTION AND ENHANCEMENT OF CRITICAL WILDLIFE HABITATS, SIGNIFICANT NATURAL AREAS, AND VERNAL POOLS.

INCLUSION OF CRITICAL HABITAT AREA MANAGEMENT PROGRAMS IN THE MASTER PLANS AND DEVELOPMENT REGULATIONS FOR CONFORMING MUNICIPALITIES AND COUNTIES.

In the original map for the Nov. 30th plan, there was a 1,000 foot buffer. Ms. Swan said that there had been new research done on vernal pools. She also summarized the three objectives for the handling of vernal pools. Mr. Schrier wanted this discussion tabled because of the absence of Mr. Alstede and his objections to this subject. Ms. Swan explained that Mr. Alstede's business precluded his attendance, but she had offered to review this discussion with him. Chairman Weingart asked that other council members weigh in with their reaction to these objectives. Ms. Letts wanted to know if vernal pools could be mitigated like fresh water wetlands. Ms. Swan is planning to bring visual examples at a subsequent meeting highlighting the pristine as well as the impacted vernal pools. Erin Lynam has been doing the research on this subject. Ms. Carluccio mentioned that this new policy brings the Highlands policy more in line with the appropriate review. She said that recreating them was not an option. She spoke in support of this approach. Mr. Dillingham asked if rebut meant modify. Chairman Weingart asked that the use of the word modify be used. Mr. Dillingham clarified that it is a rebuttal presumption that the review zone is correct and also that there might be a reason e.g. the animal no longer present, to modify the buffer or eliminate if necessary. There was discussion about DEP having regulatory authority. Dr. Van Abs said the DEP designated vernal pools are being used.

Ms. Swan introduced the next topic commenting that it had been sent to other state agencies. In particular, she said that Green Acres had sent back comments about clarifying the roles of each organization in particular noting that the forest preservation when Green

Acres funds are used require public access but that it could be limited to a specific part of a site.

Open Space Introduction

Public and private investment in land preservation over the years has protected nearly a third of the Highlands Region as perpetual open space. Open Space preserves natural and recreational lands, ecosystem integrity, and the protection of drinking water supplies. The Highlands Act contemplates preservation of additional open space resources. As a result, preservation of open space provides compensation to landowners. Ms. Swan also referenced the last meeting comment by Mr. Schrier that many municipalities and counties had done an excellent job like Morris County in preserving open space. Mr. Siemon commented that this section was largely what was in the prior document except the comments from the state agencies.

GOALS

PROTECTION OF CRITICAL RESOURCES THROUGH PRESERVED OPEN SPACE THROUGHOUT THE HIGHLANDS REGION.

CONFORMING MUNICIPALITIES AND COUNTIES INCLUDE OPEN SPACE PRESERVATION AND LAND STEWARDSHIP PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.

PRESERVATION OF FORESTS IN PRIVATE OWNERSHIP THROUGH CREATION OF A FOREST PRESERVATION EASEMENT PROGRAM.

Mr. Siemon presented this section. He said that this section was long as it was so material to the plan.

PART 2

WATER RESOURCES AND WATER UTILITIES

Water Resources and Water Utilities Introduction

The Highlands Regional Master Plan addresses five fundamental issues with regard to water resources in the Highlands Region:

- The availability of water resources for human and ecological use;
- The protection of water resource availability;
- The protection, restoration and enhancement of water quality;
- • The management of land development patterns and densities to ensure that the carrying capacity of water resources are not exceeded; The cost-effective and efficient provision and use of water utility capacity in a manner that ensures compatibility with the carrying capacity of water resources.

GOALS

PROTECTION OF THE VALUE OF THE HIGHLANDS REGION AS AN “ESSENTIAL SOURCE OF DRINKING WATER, PROVIDING CLEAN AND PLENTIFUL DRINKING WATER FOR ONE-HALF OF THE STATE’S POPULATION” (HIGHLANDS ACT, SECTION 2), ALONG WITH THE ECOLOGICAL VALUES OF CLEAN WATER, THROUGH THE PROTECTION, ENHANCEMENT AND RESTORATION OF WATER RESOURCES QUANTITY, FLOW CHARACTERISTICS, AND QUALITY AS FUNDAMENTAL TO ENSURING THAT THERE ARE ADEQUATE WATER SUPPLIES TO SUPPORT THESE NEEDS.

PROTECTION, RESTORATION AND ENHANCEMENT OF WATER QUALITY AND QUANTITY OF SURFACE AND GROUND WATERS (SECTIONS 10(B)1 AND 10(C)1), DETERMINE “THE AMOUNT AND TYPE OF HUMAN DEVELOPMENT AND ACTIVITY WHICH THE ECOSYSTEM OF THE HIGHLANDS REGION CAN SUSTAIN WHILE STILL MAINTAINING THE OVERALL ECOLOGICAL VALUES THEREOF, WITH SPECIAL REFERENCE TO SURFACE AND GROUND WATER QUALITY AND SUPPLY...” (SECTION 11.A.(1)(A)).

Mr. Peterson joined the meeting.

Mr. Siemon recognized the thresholds in the three management areas. The prior document addresses the 125% mitigation. He reviewed the plan to provide water availability in areas where there was a deficit. He also spoke about the time that undertaking the mitigation takes to implement. Ms. Swan said that the November 30 draft did not provide for any water availability in a deficit area. Mr. Dillingham questioned the policy of providing water in a deficit area and thought that where there was a deficit that no additional withdrawal be allowed. He suggested that any provision of additional water not be continued. Ms. Swan advised that Dr. Van Abs had committed to giving examples of case studies where 125% mitigation had been achieved. There was additional discussion about promoting redevelopment in areas of deficit covering the issues from Mr. Siemon and Council members. Mr. Dillingham expressed concern about resolving the problem of deficit first before granting withdrawal. Mr. Schrier also commented on the impact on development of these issues. Mr. Siemon will address in the program area discussion as well. He explained that there would be a commitment to mitigation and then in some period of time the mitigation will take place and the HUC might be better on a net basis but not worse. Ms. Carluccio spoke against giving up any additional water allocation until mitigation is resolved. Mr. Schrier commented that not allowing any allocation in a deficit area would essentially stop all development.

Ms. Carluccio asked questions about depletive and consumptive use calculations. Dr. Van Abs clarified how the calculations would be used. She also offered some edits to tighten this policy. There was not a consensus among members to change that language. Mr. Siemon asked that the Council members see how the program section works without making a final

change to this section. Mr. Whitenack spoke in favor of a balance on this issue as did Ms. Letts citing having to promote the plan to a variety of municipalities.

Mr. Siemon reviewed various options of public policy in terms of the mitigation for water availability deficits. He went on to say that there are many programs and methods to mitigate.

Subpart 2

Protection of Water Resources Quantity

Protection of Water Resources Quantity Introduction

The Highlands Regional Master Plan focuses on a variety of measures to protect the replenishment of water resources in the Highlands Region through ground water recharge and other means to ensure the maintenance of aquatic ecosystems and human water uses.

GOALS

CONTINUATION OF REFINEMENT TO THE REGIONAL MASTER PLAN WITH REGARD TO WATER RESOURCE SUPPLY.

MAINTENANCE OF HYDROLOGIC INTEGRITY THROUGH THE PROTECTION OF GROUND WATER RECHARGE.

IMPROVEMENT OF GROUND WATER RECHARGE THROUGH REGIONAL MANAGEMENT EFFORTS.

There was a question about the tiering. Tier 2 includes Tier 1 and Tier 3 includes Tier 1 and 2. This will be clarified in the document per Ms. Swan.

Subpart 3

Water Quality

Water Quality Introduction

The Highlands Regional Master Plan focuses on a variety of measures to protect, enhance, and restore as necessary the quality of water resources in the Highlands Region, to ensure that human and ecological water uses have water quality appropriate to those uses and that human water uses do not alter water quality in unacceptable ways.

GOALS

ASSESSMENT AND RESTORATION OF SURFACE AND GROUND WATER QUALITY OF THE HIGHLANDS REGION.

PROTECTION, RESTORATION, AND ENHANCEMENT OF THE WATER QUALITY OF THE HIGHLANDS REGION.

LIMITATION OF THE TYPE AND AMOUNT OF HUMAN DEVELOPMENT IN THE WELLHEAD PROTECTION AREAS OF PUBLIC WATER SUPPLY WELLS.

Sustainable Development and Water Resources

Sustainable Development and Water Resources Introduction

The Highlands Regional Master Plan focuses on a variety of measures to ensure that future development is at densities necessary to remain within the carrying capacity of water resources for both quality and quantity, and to ensure that water supply and wastewater utility capacities are made available in ways that provide maximum regional benefit within the constraints of water availability and water quality protection, and are used in ways that provide cost-effective and efficient service.

GOALS

LIMITATION OF THE EXPANSION OF WATER AND WASTEWATER INFRASTRUCTURE IN THE PRESERVATION AREA.

ALL EXISTING AND FUTURE DEVELOPMENT IN THE HIGHLANDS REGION THAT UTILIZES PUBLIC WATER SUPPLY SYSTEMS SERVED BY ADEQUATE AND APPROPRIATE INFRASTRUCTURE.

ALL EXISTING AND FUTURE DEVELOPMENT IN THE HIGHLANDS REGION THAT UTILIZES PUBLIC WASTEWATER TREATMENT SYSTEMS SERVED BY ADEQUATE AND APPROPRIATE INFRASTRUCTURE.

ESTABLISHMENT OF ON-SITE WASTEWATER TREATMENT DENSITIES TO ENSURE THAT DISCHARGES DO NOT EXCEED THE NATURAL CAPACITY OF GROUND WATER TO ATTENUATE LOADINGS, EXACERBATE EXISTING NITRATE IMPAIRMENT, OR CONTRIBUTE TO POTENTIAL NITRATE IMPAIRMENT FOR SUBWATERSHEDS OF THE HIGHLANDS REGION.

REFINEMENT AND IMPROVEMENT OF THE GROUND WATER RESOURCE MANAGEMENT ELEMENT.

Ms. Swan highlighted that the nitrate goals are included in this section. She reviewed the nitrate goals used and mentioned that there will be additional work on October 18th and November 1st looking at the nitrate levels on a HUC 14 level as to what this approach would mean for added septics. This analysis will give municipalities a good planning tool for growth. Dr. Van Abs reviewed the nitrate figures and explained that they are a median figure. There was a discussion about developments meeting nitrate dilution targets. Dr. Van Abs discussed how the targets would be met. Ms. Carluccio sent a memo to Ms. Swan

expressing her concerns about how these nitrate dilution models will be used and what drought models are going to be used and wants to have a meeting to explore them in depth. She asked what provisions there are to protect the areas that are pristine now. Mr. Dillingham also spoke to the use of median values in HUC 14. Dr. Van Abs said that these nitrate goals are being applied to privately owned, undeveloped lands. He also spoke to farming practices improving and discussed some of the fundamentals of loading. Risk analysis versus risk tolerance is the issue. Ms. Swan said that the analysis was more protective than the DEP approach because preserved lands were not a part of the analysis.

PART 3 AGRICULTURAL RESOURCES

Agricultural Resources Introduction

Agriculture is an important part of the essential character of the Highlands Region's culture, landscape, and economy. Agriculture provides important economic benefits to the Highlands Region in the form of agricultural production, in land stewardship, and in maintaining rural character. Loss of farmland and the associated erosion of rural character in some parts of the Highlands Region underscore the importance of promoting and supporting agriculture.

GOALS

PROTECTION AND ENHANCEMENT OF THE AGRICULTURAL RESOURCES OF THE HIGHLANDS REGION.

PROTECTION AND ENHANCEMENT OF AGRICULTURAL VIABILITY WITHIN THE HIGHLANDS REGION.

LIMITATION OF CONSTRUCTION OF NON-AGRICULTURAL, DEVELOPMENT-INDUCING WATER AND WASTEWATER INFRASTRUCTURE IN AGRICULTURAL RESOURCE AREAS.

Ms. Swan said that this section primarily follows the November 30 draft and includes comments from the department of Agriculture. She noted that there is an addition of the inclusion of clustering – Policy 3.3.2 – Ms. Carluccio expressed concern about the clustering language and Ms. Swan pointed to the policy in the Draft RMP of 2006 that allowed for the ability to cluster on agricultural lands near existing adjacent infrastructure. Mr. Schrier suggested some language changes to clarify this policy. Mr. Dillingham asked for the prior language to be put in. Mr. Siemon suggested that narrowing conditions had been added. Chairman Weingart asked that staff re-examine the issue again. Ms. Swan had also commented that approval by the Council was required. Mr. Dillingham commented on the Mansfield WQMP application and that it had broadened the clustering area.

Ms. Letts asked whether there would be a definition for Agricultural Resource Area. Ms. Swan noted that definitions will be gathered.

Mr. Cogger suggested an addition of BMP's by SADC and CADB's as well as requiring that conforming municipalities adopt a right to farm ordinance. Ms. Swan commented in response to questions that the information available is from what has been submitted from other state agencies. In response to a comment asking for a nomination process Ms Swan added that there has been some additional work done on natural resources review and that this new process is out for public comment

PART 4 HISTORIC, CULTURAL, ARCHAEOLOGICAL AND SCENIC RESOURCES

Historic, Cultural, Archaeological and Scenic Resources Introduction

The Highlands Region contains important historic, cultural, archaeological, and scenic resources. These resources are part of the character of the Highlands Region and are an important part of its cultural heritage.

Historic resources include buildings, structures, objects, districts, areas, or sites which are significant in the history or culture of a place or time and connect communities with their pasts.

Cultural resources include sites, artifacts, or materials which relate to the people and how they live or lived based on artifacts or historical documentation associated with the activities of people who lived, worked, and recreated in an area during a period in history.

Scenic resources are sites, landscapes, and vistas that are remarkable or distinctive because of geology, topography, vegetation, history, culture, or use of land.

The Highlands Council has assembled a Historic and Cultural Resource Inventory and a Scenic Resources Inventory.

GOALS

PROTECTION AND PRESERVATION OF THE HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES OF THE HIGHLANDS REGION.

PROTECTION AND ENHANCEMENT OF THE SCENIC RESOURCES WITHIN THE HIGHLANDS REGION.

CONFORMING MUNICIPALITIES AND COUNTIES INCLUDE MINIMUM STANDARDS FOR HISTORIC, CULTURAL, ARCHAEOLOGICAL, AND SCENIC PROTECTION IN MUNICIPAL AND COUNTY MASTER PLANS AND LAND DEVELOPMENT REGULATIONS

Ms. Swan introduced the next section.

PART 5 TRANSPORTATION

Transportation Introduction

The Highlands Regional transportation system:

- There are three small plane airport facilities within the Highland Region
- The Highlands Region is served by four interstate highways, eight state roads, and countless county and local roads
- The Region is served by four major commuter rail lines and there are 24 stations on these lines which are located within the Highlands Region
- There is limited intra-regional bus service within the Highlands Region, however particularly in Morris County and along the Route 78 and 80 corridor there is extensive commuter service, which is provided by NJ Transit and by private operators.

Ms. Swan said a great deal of analysis has been completed and input included from other state agencies; NJ Transit and NJDOT.

GOALS

PROVISION OF SAFE AND REASONABLE MOBILITY TO RESIDENTS AND VISITORS TO THE HIGHLANDS REGION, WITHIN THE HIGHLANDS, AND BETWEEN THE HIGHLANDS AND DESTINATIONS OUTSIDE OF THE REGION.

MAINTENANCE OF THE LEVEL OF SERVICE ON THE EXISTING HIGHLANDS REGION ROAD SYSTEM WITHOUT THE USE OF INFRASTRUCTURE IMPROVEMENTS THAT COULD TRIGGER ADDITIONAL DEVELOPMENT IN AREAS THAT ARE NOT APPROPRIATE FOR “GROWTH INDUCING” LAND USES.

TRANSPORTATION IMPROVEMENTS WITHIN THE HIGHLANDS REGION THAT ARE CONSISTENT WITH THE HIGHLANDS REGIONAL MASTER PLAN.

A MULTI-MODAL TRANSPORTATION SYSTEM WHICH FACILITATES THE MOVEMENT OF PEOPLE AND GOODS WITHIN THE HIGHLANDS REGION WITHOUT ADVERSELY AFFECTING ECOSYSTEM INTEGRITY AND COMMUNITY CHARACTER.

A MULTI-MODAL TRANSPORTATION SYSTEM WHICH FACILITATES THE MOVEMENT OF PEOPLE AND GOODS WITHIN THE HIGHLANDS REGION WITHOUT ADVERSELY AFFECTING ECOSYSTEM INTEGRITY AND COMMUNITY CHARACTER

PROMOTION OF DEVELOPMENT AND REDEVELOPMENT WHICH REDUCES TRAVEL DEMAND AND VEHICLE MILES OF TRAVEL.

Mr. Siemon added that there is a significant emphasis on promoting intra-modal transportation.

Ms. Swan introduced the next section commenting that there is additional information on the type of areas where one would guide growth. She also focused on integration of public parks and green spaces in opportunities for future land use. Mr. Siemon said that this was a reorganization of the material previously in the plan with additional material on the community character.

PART 6

FUTURE LAND USE

Subpart 1

Regional Guidance

Future Land Use Introduction

The Highlands Regional Master Plan establishes a framework for future land use which guides development away from environmentally sensitive lands and promotes compact development and redevelopment in the Planned Community Zone where adequate public facilities are available to serve new growth and development, provided that such development and redevelopment is compatible with existing land uses and community character. The Highlands Regional Master Plan encourages development within existing development areas.

GOALS

GUIDANCE OF DEVELOPMENT AWAY FROM ENVIRONMENTALLY SENSITIVE AND AGRICULTURAL LANDS AND PROMOTION OF DEVELOPMENT AND REDEVELOPMENT IN OR ADJACENT TO EXISTING DEVELOPED LANDS.

UTILIZATION OF THE HIGHLANDS LAND USE CAPABILITY MAP AS A FRAMEWORK FOR THE CHARACTER, LOCATION, AND MAGNITUDE OF NEW GROWTH AND DEVELOPMENT IN THE HIGHLANDS REGION.

Subpart 2

Future Land Use in Protection Zones

Future Land Use in Protection Zone Introduction

The Protection Zone includes lands within the Highlands Region which contain the highest quality resource value lands which are essential to maintaining and enhancing water quality and quantity and preserving ecological function.

GOALS

PRESERVATION OF THE LAND AND WATER RESOURCES AND ECOLOGICAL FUNCTION OF HIGHLANDS AREAS

LIMITATION OF DEVELOPMENT IN PROTECTION ZONE TO DEVELOPMENT AND REDEVELOPMENT WHICH DOES NOT ADVERSELY AFFECT THE NATURAL RESOURCES OF THE HIGHLANDS REGION ECOSYSTEM.

CONFORMING MUNICIPALITIES AND COUNTIES INCORPORATE REGIONAL AND LOCAL LAND AND WATER RESOURCE PLANNING AND MANAGEMENT PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.

Subpart 3

Future Land Use in Conservation Zones

Future Land Use in Conservation Zone Introduction

The Conservation Zone includes lands of significant agricultural importance and associated natural resource lands which are adjacent to, or in common ownership with, land used for agricultural purposes. Development potential in the Conservation Zone is limited in location and intensity because of natural resource protection requirements and infrastructure constraints.

GOALS

PROTECTION AND ENHANCEMENT OF AGRICULTURAL USES AND PRESERVATION OF ASSOCIATED LAND AND WATER RESOURCES IN HIGHLANDS AREAS.

CONFORMING MUNICIPALITIES AND COUNTIES INCORPORATE REGIONAL AND LOCAL LAND AND WATER RESOURCE PLANNING AND MANAGEMENT PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.

Subpart 4

Future Land Use in Planned Community Zones

Future Land Use in Planned Community Zone Introduction

The Planned Community Zone includes those areas characterized by previously developed lands of regional significance in size, geography, and infrastructure that may be areas of opportunity for future growth and development. These opportunities may involve the use of Highlands TDRs, provided that such growth and development are consistent and compatible with existing community character.

GOALS

SUPPORT OF COMPACT DEVELOPMENT AND MAXIMIZATION OF WATER, WASTEWATER, AND TRANSIT INFRASTRUCTURE INVESTMENTS FOR FUTURE USE OF LAND AND DEVELOPMENT WITHIN THE PLANNED COMMUNITY ZONE.

PROMOTION OF MIXED USE DEVELOPMENT AND REDEVELOPMENT IN THE PLANNED COMMUNITY ZONE.

Ms. Swan noted that this section has been added.

**Subpart 5
Redevelopment**

Redevelopment Introduction

Redevelopment is a planning tool that converts underutilized areas, brownfields, and greyfields into new land uses through structure replacement, infill, and adaptive reuse approaches. Redevelopment will help to meet the Region’s growth needs by maximizing the efficient use of previously settled areas with existing communities and available infrastructure, thus conserving natural resources and protecting drinking water.

Ms. Swan spoke about the Committee meeting this morning with Ben Spinelli from the Office of Smart Growth. She emphasized that the current process for designating an Area in Need of Redevelopment through OSG in DCA is different from the Highlands Council’s process for designating a Highlands redevelopment area for a waiver based on the 70% impervious areas.. That waiver process includes a Council determination and then the issuance of a Highlands permit with a waiver from DCA and this process is not subject to review by DCA. Mr. Schrier spoke to the conundrum of the spelling of Greyfields as Grey or Gray.

Ms. Swan continued with the presentation.

GOALS

ACCOMMODATION OF REGIONAL GROWTH AND DEVELOPMENT NEEDS THROUGH THE REUSE AND REDEVELOPMENT OF PREVIOUSLY DEVELOPED AREAS, INCLUDING BROWNFIELDS, GREYFIELDS, AND UNDERUTILIZED SITES.

OCCURANCE OF RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL DEVELOPMENT, REDEVELOPMENT, AND ECONOMIC GROWTH IN DEVELOPED AREAS IN LOCATIONS WITH LIMITED ENVIRONMENTAL CONSTRAINTS, ACCESS TO EXISTING UTILITY AND TRANSPORTATION INFRASTRUCTURE, AND EXISTING COMMUNITIES.

CONFORMING MUNICIPALITIES AND COUNTIES CONSIDER DEVELOPMENT, REDEVELOPMENT AND BROWNFIELDS OPPORTUNITIES IN THEIR MASTER PLANS.

PROTECTION AND ENHANCEMENT OF HIGHLANDS'S RESOURCES THROUGH THE DECONTAMINATION OF CONTAMINATED SITES IN REGION.

Ms. Swan noted that Chris Danis has led much of the work in the previous section.

Ms. Swan introduced the Smart Growth section and reviewed the highlights.

**Subpart 6
Smart Growth**

Smart Growth Introduction

Smart growth is an approach to resource planning and management where growth and development are concentrated and organized around “centers.” Smart growth promotes land use patterns with a sense of community and place, multi-modal and alternative use of modes of transportation, a balance of employment and housing, and an equitable distribution of the costs and benefits of development. Smart growth also includes the preservation and enhancement of natural and cultural resources.

GOAL

USE OF SMART GROWTH PRINCIPLES TO GUIDE DEVELOPMENT AND REDEVELOPMENT IN THE HIGHLANDS REGION.

**Subpart 7
Housing**

Housing Introduction

The Highlands Regional Master Plan seeks to address a full range of housing needs for the Region. This includes the needs to address low and moderate income ranges as well as middle and upper income housing needs. In addition, the Region should support a variety of housing types such as rental housing, multi-family housing, age-restricted housing, and supportive and special needs housing. The Highlands Regional Master Plan seeks to provide mechanisms to address the need to have a full range of variety and choice in housing opportunities in the Highlands Region.

GOAL

MARKET-RATE AND AFFORDABLE HOUSING SUFFICIENT TO MEET THE NEEDS OF THE HIGHLANDS REGION.

Ms. Swan noted the policy 6.7.1.1. that confirms that conforming municipalities must submit COAH certification. There was discussion about the coordinated approach with COAH. Ms. Letts commented that the COAH requirements might be in conflict with TDR receiving areas. Ms. Swan recognize the growth share issue under the third round. Mr. Dillingham asked if the staff were interacting with COAH. Mr. Borden commented that there will have to be ongoing efforts to communicate prior to plan adoption. Ms. Swan also commented that because the plan is not adopted and COAH is doing their numbers now, there will have to be additional discussions with COAH.

Ms. Swan introduced the next section.

PART 7 LANDOWNER FAIRNESS

Landowner Fairness Introduction

The Highlands Act recognizes that implementation of a regional master plan, which directs and guides future development, inevitably involves adjusting landowner expectations regarding future land use potential. The Highlands Act provides several mechanisms that seek to mitigate such impacts, including land acquisition, exemptions, a transfer of development rights (TDR) program and waivers.

The Highlands Regional Master Plan also recognizes the need to prioritize and acquire or purchase conservation easements in those lands within the Region that have the most significant resource values. To this end, the Plan proposes numerous policies to address open space acquisition and farmland preservation.

The Highlands Regional Master Plan addresses the need to develop programs that attempt to mitigate the impacts of the exemptions including programs such as non-contiguous clustering, intra-local government transfers of development rights, and economic incentives.

She commented that this section speaks to the TDR program and different exemptions that are under the act. She noted that the counties have submitted comments. Ms. Carluccio questioned the policy 7 3 7 selling credits to banks. Ms. Swan said that this approach will allow for the program to move ahead.

GOALS

PROTECTION OF LANDS WITHIN THE PRESERVATION AREA, AND IN THE FUTURE, THE PLANNING AREA THAT HAVE LIMITED OR NO CAPACITY TO SUPPORT HUMAN DEVELOPMENT WITHOUT COMPROMISING THE ECOLOGICAL INTEGRITY OF THE HIGHLANDS REGION, THROUGH MECHANISMS INCLUDING BUT NOT LIMITED TO A REGION-WIDE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM.

PROVISION FOR FAIRNESS TO LANDOWNERS IN THE PRESERVATION AREA WHOSE PROPERTIES HAVE LIMITED OR NO CAPACITY TO

SUPPORT ADDITIONAL HUMAN DEVELOPMENT AND WHO ARE DISPROPORTIONATELY BURDENED BY THE PROVISIONS OF THE HIGHLANDS ACT OR THE HIGHLANDS REGIONAL MASTER PLAN THROUGH A REGION-WIDE PROGRAM OF TRANSFERABLE DEVELOPMENT RIGHTS.

CREATION OF A HIGHLANDS DEVELOPMENT CREDIT BANK.

ESTABLISHMENT OF SUFFICIENT HIGHLANDS TDR PROGRAM RECEIVING ZONES TO CREATE A POSITIVE MARKET FOR TDR CREDITS.

MAXIMIZATION OF THE TRANSFER AND USE OF HIGHLANDS DEVELOPMENT CREDITS.

USE OF SMART GROWTH PRINCIPLES IN THE HIGHLANDS REGION THROUGH THE HIGHLANDS TDR PROGRAM.

MITIGATION TO THE MAXIMUM EXTENT POSSIBLE OF THE IMPACTS OF EXEMPT DEVELOPMENT ON THE ECOSYSTEM INTEGRITY OF THE HIGHLANDS REGION THROUGH USE OF INNOVATIVE LAND USE PROGRAMS.

RECOGNITION OF AND RESPECT FOR THE POSSIBLE EXISTENCE OF VESTED RIGHTS OF DEVELOPMENT.

Ms. Carluccio asked about policy 7 4 1 and 7 4 2 in relation to public comment. Ms. Swan will pull the public comments on those issues. She noted that public comment was received on both sides of the issue. The issue being whether mitigation is allowed within redevelopment areas.

Ms. Carluccio asked about the process for changing policies. Chairman Weingart said that if the majority of members wanted a change that it should be done as we go along. He also said that when the plan is on the table to be adopted, then motions can be made. Mr. Schrier commented that a member could dispute some parts of the plan and still find the entire plan as acceptable for adoption.

Mr. Siemon said that there is a compelling role for the TDR program and the credit bank provision gives opportunities to acquire rights. He believes that promoting the effectiveness of the TDR program is important and there is much information still to bring forward on the TDR program. Mr. Dillingham also spoke to being more proactive with respect to redevelopment areas. Ms. Swan said some of the concerns will be answered when looking at the LANDS model. She also noted that growth had not necessarily occurred in places where one would have chosen, but nevertheless it is there. Ms. Pasquarelli commented that the safeguard is that the Council has to approve the TDR receiving zones for consistency with master plan.

Ms. Swan summarized the discussion on receiving zones in the Planning Area and agreed that having to comply with environmental restraints could be added. Mr. Siemon noted that

it would be necessary to identify a program that will highlight the balancing of the Council's concerns.

Mr. Siemon noted that there was more emphasis on agro-tourism and eco-tourism in the next section and also commented on the conflict with local ordinances for home offices.

**PART 8
SUSTAINABLE ECONOMIC DEVELOPMENT**

Sustainable Economic Development Introduction

The long term integrity of the Highlands Region involves more than the preservation of its natural resources. It also involves the economic and fiscal vitality of the Highlands communities. Economic development, particularly economic development within the sustainable use of the natural resources of the Highlands Region is essential to the future of the Highlands. Economic development comes in a variety of sizes and forms and the exceptional quality of life in the Highlands Region makes the Region particularly appropriate for technology-dependent enterprises of all sizes ranging from home occupations to corporate headquarters.

GOALS

SUSTAINABLE ECONOMIC DEVELOPMENT IN THE HIGHLANDS REGION.

PRESERVATION AND ENHANCEMENT OF AGRICULTURE IN THE HIGHLANDS REGION.

THE EXPANSION OF TOURISM AND RECREATION WITHIN THE HIGHLANDS REGION.

EXPANSION OF INNOVATIVE TECHNOLOGY AND ENTREPRENURIAL BUSINESSES INCLUDING HOME OFFICE, ENERGY EFFICIENCY, AND RESOURCE CONSERVATION ENTERPRISES IN THE HIGHLANDS REGION.

**PART 9
AIR QUALITY**

Air Quality Introduction

The Highlands Act recognizes that the Highlands Region includes "exceptional natural resources such as clean air" (Section 2) and the Highlands Regional Master Plan seeks to establish mechanisms for the protection and enhancement of air quality resources for the Highlands Region that consider the interplay of air quality conditions at local, regional, interstate, and global levels.

GOALS

REDUCTION OF AIR POLLUTION THROUGH USE OF ALTERNATIVE AND EFFICIENT MODES OF TRANSPORTATION AND THE USE OF RENEWABLE ENERGY SOURCES.

Ms. Carluccio wanted to add mercury to the list. It was suggested that using the existing language add *including but not limited to*.

Chairman Weingart asked that in the editing process that the changes from this document forward be tracked. Ms. Swan and Mr. Siemon said that tracking would start from this point forward.

Chairman Weingart announced there would be no executive session. He asked for a 10 minute break and following will be public comment. Mr. Siemon introduced Lane Kendig and Gary Mitchell from Kendig Keast who have been working with the staff all week.

The meeting reconvened at 1:30 pm.

PUBLIC COMMENT

Nancy Chambellan, Warren County Environmental Commission

She spoke about a vernal pool that was filled in and the impact was flooding to her home and others. The damage has been extensive over a period of 10 years. Her comments also included a comment on Forest integrity – limestone harvesting. She noted that with that practice a tremendous number of trees are falling down and thought this was a soil conservation issue. She asked that in the Air Quality section that there be a stronger stand on monitoring across the Region. She also commented that Volatile Organic Compounds were not tested in every county and asked for consistency and establishment of a baseline.

Ms. Carluccio and Mr. Dillingham rejoined the meeting

David Shope, Long Valley

He commented that the most densely populated state has the same population as New York City. He would like to see fee simple purchase as an agricultural preservation tool in the plan. He also asked that all people that share the dais with Ms. Swan at informational meetings be listed in the Executive Director's report as well as the organization invited. He would like to know whether Ms. Swan meets with other lobbying groups. He asked for an overlay of all the restrictions. He gave information on an analysis on who pays for open space preservation that he had done for Lebanon Township. He spoke against the use of the low flow margin of safety.

Chairman Weingart responded that members and staff speak where invited to do so. He advised that he would be speaking at a Community Builders meeting in the coming weeks. Ms. Swan also noted that she and staff go to informational meetings when asked by municipalities as the Council's representatives and they do not share the dais with other entities at those meetings.

Andrew Drysdale, Chester Township

Mr. Drysdale commented that he felt that using water filters to filter the polluted water falling from the sky would be useful. He also commented that with the increase in population that everyone will need a water filter whether they live in the Highlands or not.

Wilma Frey, New Jersey Conservation Foundation

She made comments as follows: 1) She supported the language as ‘forest stewardship’ as opposed to ‘forest management’ plan; 2) She would not support additional withdrawal of water in HUC 14’s that had a deficit water situation and called for a conservative approach; 3) for nitrate dilution she asked for a copy of what Dr. Van Abs will present and spoke against the GSR 32 DEP model being used; 4) for the transportation section, she wanted a distinction made between the goals for Planning and Preservation Areas as they are different; 5) in landowner fairness, she noted that not everyone was adversely affected by living in the Highlands; 6) in the equity section, she commented that those outside the area are drinking the water; 7) for agriculture, she suggested that organic farming be added as well as incentives for farmers to have an impervious cover limit of 5%.

Tony DiLodovico, Consultant to Heritage 55

He cited N.J.A.C. 7:38 1.1 (k) which he submitted for the record. He stated that 9 units have been approved to be built in this project. He asked that a determination be given for this project at the next Council meeting. He commented that the township had endorsed the project. He will be submitting a detailed letter in response to the review that the staff made.

Ms. Anderson, Lebanon Township

She spoke regarding landowner fairness and she remarked that she knew many people whose lives had been negatively affected by the Highlands Act.

Marian Harris, Morris County Trust for Historic Preservation

She asked that the glossary definitions be in one place. She spoke to the issue of the spelling of greyfields vs grayfields and questioned which was correct. There is an issue of adding resources to the inventory and that needs to be added. She advocated that there be old and new resources. The recognized resources are not a true compilation. She spoke in support of the process being changed according to comments. She does not believe that nominations through SHPO will work adequately. She believes that there is confusion about Sec. of Interior’s standards for doing “x” to a building not a property, e.g. restoration, rehabilitation, only dealing with a building. There are Federal and State criteria including age, integrity and significance. She said that she thought that the Council should want to review whether something was worth saving.

Ms. Kovach left the meeting.

Kathleen Keren, West Milford

She thanked the Council and staff for the work done and reiterated that she is in favor of a water surcharge. She noted that in her area they had not had measurable rainfall in a month and that the reservoirs were low. She feels that her property value has increased because development has been curbed. She remarked that 95% of her town survives on septics and wells. She advocated for protecting the groundwater in her part of the Highlands saying that

for viability for living there in the future, that protection was necessary. She also advocated for open space preservation and vernal pool protection.

Chairman Weingart announced that the TDR Committee would be meeting on Thursday, October 11th at 4 pm and that the next full Council meeting would be Thursday, October 18th at 10 am.

There was a motion to adjourn from Mr. Schrier and Ms. Carluccio seconded it. All voted to adjourn the meeting at 2:10 pm.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Water Protection and Planning Council.

Dated: October 25, 2007

Paula M. Dees
Paula M. Dees, Executive Assistant

TRUE COPY

PUBLIC COMMENTS SUBMITTED

N.J. Admin. Code tit. 7, § 38-1.1

C

NEW JERSEY ADMINISTRATIVE CODE
TITLE 7. DEPARTMENT OF ENVIRONMENTAL PROTECTION
CHAPTER 38. HIGHLANDS WATER PROTECTION AND PLANNING ACT RULES
SUBCHAPTER 1. GENERAL INFORMATION

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Current through April 16, 2007; 39 N.J. Reg. No. 8

7:38-1.1 Scope and authority

(a) This chapter is authorized by the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. (Highlands Act), and statutory authorities reference therein and establishes the environmental standards and procedures by which the Department shall review any application pursuant to the Highlands Act, for major Highlands development proposed in the preservation area of the Highlands Region, for a waiver from any requirement for a Highlands Preservation Area Approval, any resource or applicability determination or exemption from the Act, and any permit or plan reviewed by the Department in the Highlands Region. In addition, the Department anticipates that the Highlands Regional Master Plan (RMP) adopted pursuant to N.J.S.A. 13:20-8 by the Highlands Water Protection and Planning Council (Highlands Council), established pursuant to N.J.S.A. 13:20-4, will include a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area. For the preservation area, the land use capability map and policies shall be based upon, comply with, and implement the environmental standards in this chapter and the resource assessment prepared pursuant to N.J.S.A. 13:20-11. The Department anticipates that the Regional Master Plan will address the components necessary to protect the natural, scenic, and other Highlands resources, including, but not limited to, forests, wetlands, stream corridors, steep slopes, and critical habitat for fauna and flora.

(b) Information regarding standards for agricultural or horticultural development in the Highlands preservation area can be obtained by contacting the New Jersey Department of Agriculture, Division of Agricultural and Natural Resources, John Fitch Plaza, PO Box 330, Trenton, NJ 08625-0330.

(c) The Department shall issue the following written determinations pursuant to N.J.A.C. 7:38-2, upon application and payment of a fee:

1. Whether a proposed activity meets the definition of "major Highlands development" as set forth in N.J.A.C. 7:38-1.4;
2. Whether a proposed activity is exempt from the requirements of the Highlands Act; and
3. Whether a proposed activity is consistent with the applicable areawide Water Quality Management Plan adopted in accordance with N.J.A.C. 7:15.

(d) The Department shall issue written confirmation regarding the location and extent of Highlands resource areas on a particular lot and block within a specific municipality pursuant to N.J.A.C. 7:38-4, upon application and payment of a fee.

(e) The Department shall designate a brownfield in accordance with the requirements at N.J.A.C. 7:38-6.6.

(f) No person shall undertake a major Highlands development without first obtaining a Highlands Preservation Area Approval (HPAA) from the Department in accordance with N.J.A.C. 7:38-6. An application for a HPAA shall include any application for waiver of a HPAA requirement under N.J.A.C. 7:38-6.4 the applicant may decide to submit.

(g) For all decisions in or affecting the planning area or the preservation area, the Department shall give great consideration

N.J. Admin. Code tit. 7, § 38-1.1

and weight to the RMP, to be incorporated by reference in (l) below, when adopted by the Highlands Council, and shall apply this in accordance with (h), (i), (j) and (k) below.

(h) For the planning area, when consistent with its statutory and regulatory authority, the Department shall not issue any approval, authorization or permit that the Department determines, in consultation with the Highlands Council, to be incompatible with the resource protection goals in the RMP to be incorporated by reference in (l) below, when adopted by the Highlands Council.

(i) In its review of permits or approvals under this chapter in the preservation area, the Department shall apply the standards of this chapter and those in the RMP, to be incorporated by reference in (l) below, when adopted by the Highlands Council. Where the Department, in consultation with the Highlands Council, determines there is an inconsistency in the standards, the Department shall apply the Regional Master Plan standards insofar as they are:

1. Consistent with the purposes of the Highlands Act to sustain and maintain the overall ecological values of the ecosystem of the Highlands Region with special reference to surface and ground water quality and supply; contiguous forests and woodlands; endangered and threatened animals, plants, and biotic communities; ecological factors relating to the protection and enhancement of agricultural or horticultural production or activity; air quality; and other appropriate considerations affecting the ecological integrity of the Highlands Region; and

2. Based on, comply with, and implement the environmental standards set forth in N.J.S.A. 13:20-32.

(j) For both the planning area and preservation areas, the Department shall give great consideration and weight to the RMP, to be incorporated by reference in (l) below, in making permit decisions that:

1. Provide relief from strict compliance with the standards of the applicable permit programs, such as making a determination of public benefit or hardship waiver from certain Departmental permits; or

2. Provide relief through the issuance of an HPPA with waiver under this chapter.

(k) For both the planning area and preservation areas, the Department shall review the Highlands Council regional master plan and consider amending the appropriate areawide Water Quality Management Plans to maintain consistency with the regional master plan. The Department shall approve a Water Quality Management Plan amendment only after receiving from the Highlands Council a determination of consistency with the Regional Master Plan to be incorporated by reference in (l) below, when adopted by the Highlands Council. Pending completion of the Regional Master Plan, the Department shall not approve a Water Quality Management Plan amendment for a project proposed in the planning area or preservation area without first obtaining a recommendation from the Highlands Council.

(l) The Regional Master Plan shall mean the standards established in the Regional master Plan adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8, including all goals, requirements, provisions, and any municipal master plans and development regulations or county master plans and associated regulations that have been formally approved by the Highlands Council pursuant to the Highlands Act. The Regional Master Plan shall be incorporated by reference into this chapter, when adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8, provided the Department does not determine such incorporation is inconsistent with the purposes of this chapter. The incorporation by reference shall include all amendments to the Regional Master Plan subsequently adopted by the Highlands Council. The Regional Master Plan will be available on the Highlands Council's website at www.highlands.state.nj.us or may be reviewed at the Department or at the Highlands Council at the addresses at N.J.A.C. 7:38-1.2.

Adopted by R.1980 d.401, effective September 18, 1980. Amended by R.2006 d.420, effective December 4, 2006.

<General Materials (GM) - References, Annotations, or Tables>

N.J. Admin. Code tit. 7, § 38-1.1

HISTORICAL NOTES

Source.

1980. See: 12 N.J.R. 458(a), 12 N.J.R. 577(b).

2006. See: 37 N.J.R. 4767(a), 38 N.J.R. 5011(a).

EDITOR'S NOTE

R.2006, d.420, rewrote the section.

<<CHAPTER 38. HIGHLANDS WATER PROTECTION AND PLANNING ACT RULES>>

N.J.A.C. 7:38-1.1, NJ ADC 7:38-1.1

NJ ADC 7:38-1.1
END OF DOCUMENT