

**NEW JERSEY HIGHLANDS WATER PROTECTION  
PLANNING COUNCIL  
MINUTES OF THE MEETING OF SEPTEMBER 6, 2007**

**PRESENT**

JOHN WEINGART	)	CHAIRMAN
KURT ALSTEDE	)	COUNCIL MEMBERS
TRACY CARLUCCIO	)	
TIM DILLINGHAM	)	
JANICE KOVACH	)	
MIMI LETTS	)	
JACK SCHRIER	)	
TAHESHA WAY	)	
SCOTT WHITENACK	)	

**VIA TELECONFERENCE**

DEBBIE PASQUARELLI	)
ERIK PETERSON	)

**ABSENT**

ELIZABETH CALABRESE	)
BILL COGGER	)
GLEN VETRANO	)

**CALL TO ORDER**

The Chairman of the Council, John Weingart, called the 53<sup>rd</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:12 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 AUGUST 16, 2007**

The approval of the minutes for both the public meeting and Executive Session was deferred until later in the meeting while copies of the minutes were distributed to members of the public.

## **CHAIRMAN'S REPORT**

Chairman Weingart announced that there was an Annotated Schedule of Meetings available for anyone to take. He also noted that the next Council meeting was scheduled for September 20<sup>th</sup> at 10 am. In addition, the Budget and Finance Committee will be meeting September 19<sup>th</sup> at 1:30 pm and the TDR Committee will be meeting October 11<sup>th</sup> at 4 pm. The Natural Resources Committee will be tentatively meeting September 20<sup>th</sup> after the Council Meeting.

He asked if there were any reports from Council Members and there were none. Mr. Alstede joined the meeting.

Chairman Weingart discussed the structure of this meeting which is the first in a series of work sessions devoted to revising the Highlands Regional Master Plan. There have been documents circulated to Council Members that are available to the public today that have policy and discussion issues that the staff has prepared. This meeting will be different from future meetings, starting with the next meeting, where the Council will be focusing on text proposals that will be prepared by staff and if accepted by the Council will be put in the plan. He also said that Agenda items #7 and #10 would be combined. There were no Committee reports as there were no Committee meetings since the last Council meeting.

Mr. Weingart discussed the need to consider election of a new Treasurer as Council member Pasquarelli has stepped down as Treasurer and Chair of the Budget and Finance Committee. He thanked her for her service and gave his appreciation on behalf of the Council. He then asked Charlie Siemon and Eileen Swan to give their reports.

Mr. Siemon made a short introductory statement. He reiterated that there was an aggressive schedule to revise the Regional Master Plan. There are a number of matters that involve a number of policy assumptions. He discussed the need to have these substantive elements discussed in order to make the deadline. He asked that the Council share its concerns. He stressed that staff and consultants wanted to hear concerns and understand preferences and get some consensus rather than taking a vote.

## **EXECUTIVE DIRECTOR'S REPORT**

Ms. Swan is using her report as an introduction to these issues. She discussed that the staff and consultants are setting forth a path and giving the Council the progress that has been made. For example, when a Land Use Capability Map is presented, the Council will understand the indicators that were used. She also reviewed the importance of being responsive to the public comments that were received and how those comments had contributed to the information provided for today's meetings.

She discussed the importance of coordination with other State agencies and reviewed the outreach meetings that had been held since the last meeting.

**August 17. – Clinton Twp.** - Council staff met with town officials and to discuss Plan Conformance with respect to redevelopment opportunities. (Council staff Swan, Borden, and Van Abs)

**August 22 – Twp of Hardyston** - Council staff met with town officials and legislative aides to discuss Highlands exemption issues. (Council staff Swan, Ball Kaiser)

**State and Federal Agency Coordination:**

**August 22 – State Planning Commission** – Executive Director Swan attended the SPC’s Plan Implementation Committee meeting for Highlands coordination issues.

**August 28 – NJDEP**– Council staff met with NJDEP staff to discuss Nitrates and Septic Density. (Council staff Swan, Borden, Van Abs, Hutzleemann, and Coppola)

**August 28 – NJDEP**- Council staff met with NJDEP staff to discuss Water Availability. (Council staff Swan, Borden, Van Abs, Hutzleemann, and Coppola)

**August 29 – NJDOT / NJ Transit** – Council staff met with NJDOT and NJT staff to discuss RMP development. (Council staff Swan, Van Abs, and Danis)

**August 30 –SADC/NJ Department of Agriculture** – Council staff met with SADC/Ag staff to discuss RMP development, Farmland Preservation priorities, and cluster provisions. (Council staff Swan, Borden, Van Abs, Keren, Ball Kaiser, Danis, Ross)

Ms. Swan also discussed upcoming meeting with Califon Borough, County Planners, and the NJ Highlands Coalition.

Ms. Swan started the review of the numbered issues in the Policy Issue memo distributed to the Council.

**#1 - Land Use Capability Map and LANDS Model**

Ms. Swan discussed the first issue involving the development of the updated Land Use Capability Map (LUCM) through the use of a more sophisticated GIS land use tool - the LANDS model (Land Use Analysis Decision Support System). The LANDS model is more user friendly and the Council’s GIS Unit has tested it as a working model. The refined model is responsive to public comments and will deliver a Land Use Capability Map where the capability component will be clearer.

**#2 - Lake Communities**

Ms. Swan reviewed that there had been many public comments as well as comments from Council members on the development of the Planned Community Zone. The development of this zone was based upon a certain degree of existing development and population density. The Council received comments that many of these areas may not be appropriate for additional growth. There are some areas that have potential for growth and some areas that do not. Ms. Swan discussed the development of the mapping of subareas within the Planned Community Zone that will delineate the lake areas and show there are some areas that should not be developed. She described the tiered approach as follows:

Council staff recommends the continued development of areas of lake management within which management strategies will be applied to help protect lake water quality and value

from the impacts of present and future development. These areas would be based upon the following:

- **1,000 ft shoreland district** – land use compatibility standards and water quality standards (primarily focused on continuous pollutant sources that can contribute pollutants overland or through ground water over longer distances) will be developed and implemented for this area.
- **300 ft zone** for lake ecosystem standards and water quality standards, to address direct impacts upon the lake.
- **300 (min)-1,000 (max) ft visual/scenic district** – scaled based upon the view distance from the shoreline, which is determined through the size and layout of the lake, with larger lakes having longer sight distances.
- **Watershed** – As a long term strategy, the Council can refine lake management areas when LiDAR data are available to include all land areas draining to each lake.

Ms. Swan mentioned that the LiDAR mapping would be an ongoing process and in the future the Council will be able to look at the drainage issues. In the meantime, the Council will be able to develop a map showing capacity around the lakes in an overlay or a LANDS indicator.

Ms. Carluccio asked whether some of the lakes drain into different subwatersheds (HUC 14s). Dr. Van Abs responded that there are many lakes and that each lake has a drainage area that may be in multiple HUC 14s and that many are so small that they cannot be delineated. Ms. Carluccio asked if the LiDAR will give more information. Mr. Keren confirmed this and stated that the schedule for the completion of the LiDAR analysis would be the end of October and thus this information will not be included in this iteration of the Regional Master Plan.

Ms. Pasquarelli asked about this schedule and it was confirmed that the end of October was the schedule for getting LiDAR information.

Ms. Letts expressed the need for an enforcing agency to avoid degradation of water quality because of one municipality's decision affecting another municipality. Ms. Swan commented that regional planning and LiDAR will give additional information to municipalities.

Mr. Dillingham asked if the second iteration of the model changes the methodology of the indicators of the zones. Ms. Swan answered that the original 51 indicators are still being used, but staff will be adding indicators that will further refine those zones and that there will be a closer look at the indicators for duplication and the process will then be refined.

In response to Council member questions, Ms. Swan said that the Council will be able to illustrate areas within the Planned Community Zone with special constraints. Ms. Letts expressed the idea that the Lake Communities should be identified as a separate zone. Ms. Swan said that there will be other sub areas. Mr. Alstede asked if we are using 2 different colors. Ms. Swan said there will be three zones that will be treated differently in the Planning and Preservation Areas.

### #3 Existing Areas Served Data

Ms. Swan indicated that data gaps currently exist about areas served by sewer infrastructure, known as Existing Areas Served. She indicated that many of these gaps, where information was not available, have been filled in with the assistance of municipalities and counties. Other gaps will require additional research and data collection.

Mr. Weingart asked if these are omissions or errors and Ms. Swan answered that these areas served were where there was no available data but that staff had received data from municipalities. Any errors or omissions will be addressed as best that can be accomplished in the revised plan and other changes may be made during Plan Conformance. Mr. Siemon stated that certain mapping issues that may only address several hundred acres would not necessitate addressing these issues at this time. Mr. Siemon commented that these data sets are being modified, but there are many data sets that will not be changed.

Ms. Carluccio asked what constituted significant utility systems. Dr. Van Abs answered that existing areas served involved service areas are for large systems not the small system that only served specific developments. Mr. Dillingham confirmed that these areas were “pipes in the ground” areas and not just proposed service areas. Ms. Swan confirmed Mr. Dillingham’s understanding.

#### **#4 Enhanced Growth Capacity of Developed Lands**

Ms. Swan explained that the Land Use Capability Map should show what areas are appropriate for growth. This is important for the TDR receiving zones to know whether there is capacity for them. Ms. Swan continued to discuss the methodology used recommending that the Planned Community Zone be refined to include sub areas based upon redevelopment potential. Council staff has conducted an analysis that characterizes Census blocks by their potential for increased development value on vacant, underutilized and existing developed lands. The analysis is limited to developed lands, as identified in the Developed Lands Analysis. The following five indicators will help define both the location and extent to which enhanced growth capacity exists, and will be used to help define the boundaries and development capacity of Planned Community Zones.

- Partially Vacant Indicator**
- Economically Underutilized Indicator**
- Vacant Indicator**
- Multi-modal Transit Indicator**
- Local Conditions Indicator**

Ms. Swan continued that the mapping of the Planned Community Zones, will show Lake communities and other areas that are not appropriate for growth. She stated that this is a tool for communities and appropriate for the plan.

Mr. Dillingham asked for the definition of economically underutilized indicator. Mr. Siemon answered that it was based on relative value of the improvements vs. the land, a mathematical calculation using MOD4 data. Ms. Pasquarelli asked if that was based on land cover. Mr. Siemon clarified the value of improvements relative to the value of the land using MOD 4 data. She then asked what was the Local Conditions Indicator. Ms. Swan commented that it is areas where there are certain local conditions such as: redevelopment, enterprise zones, and other similar decisions that have been made locally. Ms. Pasquarelli

asked where the resource protection standard enters into this discussion. Ms. Swan said they are taking a deeper look at the development pattern that already exists to better use those areas. Ms. Pasquarelli asked if these areas are near to streams and Ms. Swan answered that the constrained lands could be removed. There are areas where there is development in constrained areas and standards will be developed to mitigate those areas. Mr. Siemon believes primary program for the environmentally constrained lands will be refined to include programs. Chairman Weingart clarified that one of the challenges was not taking an individual policy issue in isolation. Mr. Schrier then joined the meeting.

Ms. Carluccio expressed concern for filling in every vacant lot with growth. Ms. Swan went on to discuss that all communities in the Planned Community Zone are not appropriate for growth and that growth is discretionary. Ms. Carluccio asked if the Council had a position on eminent domain for smart growth. She speculated whether the Council should have a protective policy. Mr. Weingart stated that he felt that having a policy on eminent domain would contradict the process. Ms. Letts commented that there needed to be a certain amount of discretion to communities and that the Council could provide them with tools in decision making. Ms. Pasquarelli commented that the Council needed to “get it right” for resource protection in the Planning Area.

Ms. Way asked with respect to the 5 indicators – whether they were weighted. Ms. Swan said that they were not and Dr. Van Abs said that it was difficult to say that one indicator was more important than another. He said it was more of an issue of looking for reinforcing patterns.

#### **#5 Transportation Analysis**

Ms. Swan spoke about the meeting with Council staff, DOT, and NJ Transit and reviewed some of the comments and recommendations. She reviewed the Council staff recommendations that six indicators, relating to the transportation system analysis, be used to refine the Planned Community Zone:

**Transportation corridors** - Includes developed lands within 1/4 mile of significant US routes, state routes, and specified county routes.

**Interchanges and intersections** - Includes developed lands within 1/2 mile of buffered roadway interchanges and intersections.

**Train station "inner core"** - Includes developed and undeveloped lands within 1/2 mile "inner core" buffer of train stations in or within 1/2 mile of the Highlands Region.

**Train station "outer core"** - Includes developed and undeveloped lands within a 1 mile "outer core" buffer of train stations in or within 1 mile of the Highlands Region.

**Park & rides** - Includes all developed lands within a 1/2 mile buffer from all NJDOT park and ride locations in or within 1/2 mile of the Highlands Region.

**Bus routes** - Includes all NJ Transit and major private bus carriers in the Highlands Region, which operate daily basis on any of the US, State or County routes.

She commented that there would be further analysis to refine the Planned Community Zone in response to public comment. Ms. Letts asked if there was analysis of not just bus routes but stops citing an example of Rt. 46 where people can get on a bus to NYC. Ms. Danis spoke about the bus stops being a secondary effect, also noting that they were subject to change, and that the routes were the regional driver that could be used in the next iteration of the plan. Ms. Letts also commented that redevelopment could take place near bus stops.

Ms. Danis spoke about the studies that were presently examining ridership and the use of park and ride.

Mr. Alstede questioned whether there would be recommendations for improved transportation infrastructure in the next version of the plan rather than just documenting the existing conditions and the existing system for in and out of NYC. There was additional discussion that resulted in Ms. Swan commenting that there would most likely not be recommendations for new transportation projects in this next version. Dr. Van Abs mentioned a study that is upcoming on intra region transit needs (Northwestern NJ Bus Study) and Ms. Danis commented that it would be about \$900,000 in Federal funding through NJ Transit utilizing North Jersey Transportation Planning Authority as the contract agent. It will cover Morris County, portions of North Warren and also Sussex County. There was additional discussion and Mr. Siemon concluded with a comment that there will be significant enhancement in the goals, policies and objectives for future mobility but that programs not projects will be identified.

Chairman Weingart said that the copies of the minutes were now available.

### **#6 Water Availability**

Ms. Swan presented Council staff recommendations on water availability. She started by stating that DEP is using the same technical method for their Statewide Water Supply Plan, (the low flow margin method) that the Council is using. She continued that public comments had been received and that staff made the following recommendations as refinements to the draft RMP.

1. Assign water availability thresholds to entire HUC14 subwatersheds rather than zones within subwatersheds, based on the dominant zone (>75% of the subwatershed) or on the Watershed Condition Indicator.
2. Cross-reference NJDEP rules protecting water supply safe yields from new consumptive and depletive water uses, and reduce water availability thresholds in upstream HUC14 subwatersheds by 2-3% LFM (to a minimum of 5% LFM) to address the impacts of new water uses that NJDEP does not regulate.
3. Provide limited, conditional water availability in deficit subwatersheds. Realization of this availability would be conditioned upon 125% mitigation (no change from Draft RMP).
4. For HUC14 subwatersheds upstream of deficit subwatersheds, change the policy from a fixed 5% LFM (which resulted in additional deficit subwatersheds) to a policy of 5% LFM above current consumptive and depletive water uses (but not above the standard thresholds).
5. Distribute available water within a HUC14 subwatershed on the basis of RMP development and redevelopment potential.

Ms. Letts expressed concern regarding the need to have all the water information because where we are showing availability there may be a localized deficit. Ms. Swan stated that if there is more information available, it will be used. There is further work on water tracking models that Dr. Van Abs had set forth for the future. Ms. Letts recommended that the plan should reflect that there is a lack of information for certain aspects of water availability.

Dr. Van Abs said that this is the first step in a lengthy equation. The first question is does the subwatershed have water, what is used, and what is coming back. He described situations

where the water comes from another subwatershed goes to another subwatershed water goes out, comes back and then out again in a sewer system. It is as if that water never touches the subwatershed, but it does support development within it. An updated tracking system will better illustrate where the water comes from (access to resource), what utility is transporting it, where it is used and what wastewater system is handling it.

Mr. Alstede asked how one should handle a deficit in a subwatershed where reservoir water is going elsewhere and there is a viable town center. Dr. Van Abs said the safe yield for the reservoirs serving northeastern NJ does not reflect ground water capacity or water availability in the Highlands. The safe yields for those reservoirs are certified by DEP. The withdrawal from the reservoirs does not influence the net water availability in the Highlands. If there is a deficit in any subwatershed, it is the demand on groundwater in that subwatershed or on surface water not associated with the reservoir. The deficits on the map show what is happening in the Highlands.

Mr. Weingart asked whether there would be a recommendation in response to Mr. Alstede's question – alternative water supply or a way of reducing consumptive and depletive demand within that subwatershed to offset demand. He expressed the need to obtain a sense of the development capability in the PCZ and if there is a problem, can we handle the issues appropriately. In response to Ms. Carluccio's questions, Dr. Van Abs described the subwatershed characteristics. He further commented that this methodology would allow less water availability in the Protection Zone not more. Ms. Carluccio asked about clustering and impact of this change in methodology making more cluster developments possible. Dr. Van Abs answered that in the Conservation Zone, it would increase and protect the availability of water for agriculture and limit amount of water for development.

Ms. Carluccio asked whether there was analysis regarding making more water available and questioned the 125% mitigation. She expressed concern for the lack of information and adding 1-2% for depletive uses without an Eco Flow model. Dr. Van Abs answered that there is a lot of science behind this recommendation and that the technical report will have to be modified to respond to her concerns.

Ms. Pasquarelli asked if Natural Resources Committee been involved in these recommendations. Chairman Weingart said that the Council was acting as a committee of the whole. Dr. Van Abs reiterated his previous comments on the water system and said that additional data has been received, based on in-house work started in the last year.

Mr. Alstede and Mr. Dillingham expressed concern and asked how deficits in subwatersheds would be handled. Dr. Van Abs answered that the DEP will be consistent with the Highlands Plan. Ms. Swan said this situation had been discussed at the last meeting with DEP. Dr. Van Abs said that the Highlands determinations will have some impact when DEP looks at water availability statewide.

Ms. Carluccio asked whether the #4 recommendation, regarding current consumptive allocation, meant fully allocated. Dr. Van Abs commented that it means current not full allocation. She expressed concern saying there was a need to take a conservative approach.

Ms. Carluccio went on to ask whether other policies that are not addressed here are not affected. Mr. Siemon said he had been referring to data sets. Ms. Swan said there will be further work at the Council's meeting on "Goals, Policies and Objectives." Ms. Swan said that some background information had been sent out, but that for all staff recommendations the bar or standard applied is a scientific basis, a strong legal basis, and good planning.

#### **APPROVAL OF MINUTES OF AUGUST 16, 2007**

Mr. Weingart asked members to break from the presentation to complete unfinished business. Mr. Schrier introduced a motion to approve the August 16, 2007 minutes. Ms. Letts seconded it. There were no changes. The minutes were approved with two abstentions: Mr. Dillingham and Ms. Pasquarelli. Mr. Schrier introduced a motion to approve the August 16, 2007 minutes from the Executive Session. Ms. Letts seconded it. The minutes were approved with three abstentions: Mr. Dillingham, Ms. Pasquarelli, and Mr. Peterson.

#### **CONSIDERATION OF RESOLUTION FOR ELECTION OF TREASURER FOR NJ HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**

Chairman Weingart thanked Ms. Pasquarelli for her service as Treasurer and Chairman of the Budget and Finance Committee stating that she had decided to step down. He asked for a motion to nominate Bill Cogger as Treasurer. Ms. Pasquarelli introduced a motion to nominate Mr. Cogger and Mr. Schrier seconded it. Mr. Weingart asked if there were any other nominations and there were none. He asked for a vote and all voted in favor. The Resolution passed.

Ms. Letts left the meeting at 12:15 pm.

#### **#7 Septic Density**

Ms. Swan stated that this discussion was a status report and not a recommendation on specific thresholds. She commented that septic density was important for its impact on the environment and water quality. This is a major policy issue that was only partially addressed in the Draft RMP and elicited many public comments requesting further information. The basic issue is what septic system density is appropriate in the various zones of the Highlands Region.

Ms. Swan reviewed the recommended approach to the creation of septic density policies:

1. Allowable septic system densities for new development should be tailored to each LUCM zone, reflecting the impacts of existing nitrate levels, recognizing the legislative distinction between the Preservation and Planning Areas, and addressing issues such as lakes communities, brown fields and redevelopment areas where a combination of restoration, alternative technology and no degradation or antidegradation (depending on Preservation or Planning Area location) may be appropriate.
2. Where nitrate dilution models are used in the RMP, the modeling assumptions used by NJDEP in its Highlands Rules regarding nitrate concentrations and loads from septic systems should be used.
3. Recharge by HUC14 subwatershed should be used as the basis for nitrate dilution, consistent with other RMP analyses. However, drought ground water recharge should be used as a conservative factor to address nitrate impacts in smaller watersheds, headwaters areas and aquifers with limited storage capacity, all of which are common in the Highlands Region.

4. The development yields from dilution models should be based on the privately owned, developable areas only, and should not give credit for public preservation of other lands within the subwatershed.

In response to a question from Mr. Schrier Ms. Swan stated that the septic density goals for NJDEP's rules in the Preservation Area are very specific and that Section 34.e. of the Highlands Act requires "a septic system density standard established at a level to prevent the degradation of water quality, or to require the restoration of water quality, and to protect ecological uses from individual, secondary, and cumulative impacts, in consideration of deep aquifer recharge available for dilution."

For the RMP, the Highlands Act does not include such detailed specifics. The Council's Resource Assessment must 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." The Smart Growth component similarly requires an analysis of appropriate densities based upon that assessment (while it does not specifically list septic density). Lastly, the goals from Section 10 are to "protect, restore, and enhance the quality and quantity of surface and ground waters therein" for both Preservation and Planning and the additional Planning Area goal of "(9) encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof."

Mr. Dillingham commented that the statutory requirement to protect, enhance and restore applies to the whole Region and he wants to be sure that good water quality is not degraded. He further commented that nitrates are pollutants and a public health issue not just an indicator. Ms. Swan discussed the approach being taken by staff is to review Best Management Practices for nitrate level and looking to setting the bar by approaches that are responses to the scientific, legal, and planning mandates of the Act.

Ms. Carluccio discussed her concern that the Statewide 2.0 mg/liter standard is above the median background standard of 1.88 mg/liter for the Highlands Region and believes that standard is allowing for some degradation. Ms. Swan said the staff is continuing to work on this issue and will bring the results back to the Council. Dr. Van Abs said that the septic density recommendation would be ready for the October 4 meeting and that the Council would receive it 10 days before the meeting.

### **#8 Agricultural Resources**

Ms. Swan stated that Council staff has been coordinating with the Department of Agriculture (NJDA) and the State Agriculture Development Committee (SADC) regarding proposed use of Important Farmland Soils. Staff conducted an analysis of the relative amount of Important Farmlands Soils within the four soil class types (Prime, Statewide Importance, Local, and Unique). The results demonstrated a consistent percentage throughout the Highlands Region and that over 111,000 of the 181,000 acres of Prime Soils

were captured in the Agricultural Resource Area. Staff recommends that Important Farmland Soils continue to be used as an appropriate criterion, in addition to other criteria, to use in establishing the Agriculture Resource Area.

After discussions with the NJDA and SADC, Council staff has begun the examination of two specific issues: farms with 50% or more prime soils and farms contiguous to (within 1 mile of) preserved farmland, as factors in determining minimum standards for ranking farms for preservation. These factors will continue to be examined for the Agricultural Priority Area and it is recommended that the indicators used to rank agricultural conservation value in the Final Plan.

Mr. Schrier asked if the County Agricultural Development Boards were involved in prioritization of the soils and Ms. Swan commented that those organization will be kept in the loop working with SADC and County planners. Mr. Borden answered some comments relating to soils with the clarification that for today's meeting the discussion was just the definition of soils for purposes of the LANDS model.

### **#9 Vernal Pools**

Ms. Swan discussed that the Council received public comments expressing both support for, and strong objections to, the Draft RMP policy and LUCM mapping methodology of 1,000-foot buffers around NJDEP certified vernal pools.

For pool-breeding amphibian species, studies indicate amphibian travel distances from vernal pools to surrounding terrestrial habitat of 400 to 4,000 feet. The Draft RMP buffer of 1,000 feet is approximately double the average migration distance of adult spotted salamanders and blue-spotted salamanders. Council staff have examined the Metropolitan Conservation Alliance's recommendations for three rings of buffers (vernal pool depression, 100-foot protection zone, 750-foot amphibian life zone) around vernal pools in which differing degrees of management activities are recommended. Ms. Swan stated that staff recommends the continued use the 1,000 foot buffer for the development of the LUCM. For development review, staff recommends that more refined review zones be established to create tiers of protection to vernal pools. These tiers would be based upon quality and ecological significance and vernal pools would be scored for biological value and critical terrestrial habitat condition.

Ms. Carluccio expressed support for the 1,000 foot buffer and not tiering and Mr. Alstede expressed support for the tiered approach. Other members expressed concerns about the tiered approach or lack of it.

### **#10 Karst**

Ms. Swan stated that many comments have been received on the need to identify karst features in the Highlands Region and to develop relevant resource protections standards. Staff recommend using existing New Jersey Geologic Survey and United States Geological Survey data for those areas of the Highlands Region that are underlain by carbonate rocks to map a Carbonate Rock Area. In addition, an ordinance should be recommended or required for municipalities that are in the Carbonate Rock Area or drain surface water to it. Ms. Carluccio suggested that there was a need to work on model ordinances to present to municipalities.

### **#11. Deferring to Pre Conformance or Conformance**

Mr. Siemon discussed the issue that where there is a goal, policy or objective, there should be a program and those programs will be resource material that will accompany the plan. There was some discussion on the issue of programs not always being ordinances. Mr. Dillingham commented that the Council had made policy regarding the consideration of 'new' information from municipalities or counties during conformance. He stated that this would only be allowed if the information was consistent with the goals of the Plan. Mr. Weingart expressed the desire to reexamine the process for the review of municipal information and approaches. Mr. Siemon stated that the municipal or county approach would have to result in equal or superior protection.

In response to a question Ms. Swan commented that there would be some updates to the technical reports.

### **#12. Exemptions**

Ms. Swan discussed the recommendation to estimate exempt development activity. The analysis will assist with the refinement of the TDR program and Developed Land Analysis for the Highlands Region. It is recommended that the analysis focus on Exemptions #1, 2, 4, and 5. This approach will include the use of the 2005 MOD IV parcel data and Highlands Composite Zone data.

### **#13. State Plan Designated Centers**

Ms. Swan discussed that numerous commenters argued that the Draft Plan did not adequately consider existing centers that have been designated by the State Planning Commission. Staff recommends that the twenty-one (21) existing State Plan Designated Centers be mapped and used as an overlay including the types of Designated Centers and their respective expiration dates. In addition, the nature and extent of environmentally sensitive and/or resource features within the Designated Centers will be evaluated and included as narrative in the Smart Growth Component. There was discussion about whether any conflicts between the draft RMP and State Plan would be identified. There will be an attempt to document them.

Council member Carluccio expressed concern that the mapping of these centers might seem like endorsement of them.

### **#14. Inventory of Potentially Contaminated Sites (Brownfield Sites)**

Ms. Swan stated the staff recommends the addition of the approximately 17 Highlands sites that are included in the NJDEP's Non-Operating Landfills with Evidence of Groundwater Impact (July 2007).

### **#15 Steep Slopes**

Ms. Swan indicated that steep slopes is an example of the recommended clarification that the NJDEP rules apply within the Preservation Area and that these rules be strengthened with NJDEP's use of the provisions in the RMP to improve protection of that resource.

There were no additional comments from the Council. Mr. Alstede brought his payment for a fine levied for a late receipt of his financial disclosure in connection with his participation as a Council member. He expressed concern about the State's treatment of a volunteer who gave of his time in this endeavor. There was a break for lunch at 12:55 pm.

Before the meeting was reconvened, several Council members had to leave, including Mr. Whitenack, Ms. Letts, and Mr. Dillingham.

## **PUBLIC COMMENT**

### **Robin O’Hearn, Skylands Clean**

She expressed support for the new mapping and expressed support for additional zones being developed. She brought up the issue of other grandfathered exemptions (exemption # #3, expires if construction beyond site preparation does not commence within three years after the date of enactment of the act) that should be revoked and asked if the Highlands Council or DEP had a policy. She was advised that NJDEP is issuing letters regarding Highlands Act exemptions that may be revoked.

### **David Shope, Long Valley**

He commented on the members on the Council who had asked questions. He discussed the issue of water deficit saying that the cities are entitled to the water in the reservoirs and those that live in the Highlands only entitled to what is left. He also discussed the tax receipts that the State of NJ receives from NJ American Water. He raised concerns about different standards for water use in the cities vs. rural areas. He spoke against the septic density methodology. He also raised the issue of no distinction for soil types. He wanted to know what analysis there was to recommend not building on limestone.

### **Julia Somers, NJ Highlands Coalition**

She is interested in seeing the programs that will back up the plan. She asked for a list of the roads that were covered in the transportation section. She asked for clarification for karst mapping whether it is separate mapping or will be a part of the LUCM. She commented that the vernal pools should be protected where they have been certified by NJDEP.

### **Hank Klumpp, Tewksbury Township**

Mr. Klumpp commented that he has been waiting for three years for answers to decisions for property owners. He complained about the schedule of the meetings to accommodate farmers and about fairness in the treatment of those affected. He submitted written comments.

### **Helen Heinrich, NJ Farm Bureau**

She asked if she could send written comments to the Council and whether Mr. Siemon would receive the comments. Chairman Weingart asked that she submit them as soon as possible and that Mr. Siemon was in attendance. She commented asking why these issues and not others. She continued to discuss other comments – expressing concern that the Council members see the effects on one map. She spoke in favor of a tiered approach, smart growth and transportation. She asked about economic development. She wanted to know if an economist was going to look at the report. She wanted to have roadway intersections examined that are difficult for farmers to use. She also asked about reviewing cluster models. She also commented that prime farmland can be used for anything and that farmers should know that the protection of prime farmland will be an assumption in the plan. It was clarified by Chairman Weingart that Mr. Siemon’s firm had worked on many ordinances over the years and would be drawing from those proven and tried ordinances.

**Rich Longo, Booton Township**

He spoke in criticism of the lack of property tax relief for his property. He submitted a letter detailing his experience with the local and county tax assessor.

**Andrew Drysdale, Chester Township**

He commented on legislation and endangered species. He submitted a letter with his detailed comments.

**Dave Peifer, ANJEC**

He will submit written comments and discussed several issues. He thought there was not a clear explanation of how the previous model aggregated the assumptions and asked for a technical paper on the LANDS model. He spoke in support of the indicators used in the fourth issue (Enhanced Growth Capacity of Developed Lands) and asked for specificity for all the indicators and how they are used. He also commented on surface transportation being the focus and asked that air transportation be included as well as pipelines in the plan. On the subject of rail transport, he advocated for inclusion of a map of historic rail lines so that they could be used to reestablish new connections. He also commented that septic density and karst should be examined together. He stated that when you treat karst formations as a problem and not a resource, you ignore that they are valuable as future water resources. He asked for the Council to reconsider some additional policy statements in this area.

**Wilma Frey, NJCF**

She asked for additional background information on the presentation today. Chairman Weingart stated that there are no other documents, other than the Policy memo, available for public distribution at this time. She spoke in support of water supply and septic issues that Ms. Carluccio raised. She also supported the concept of the vernal pool boundary being firm not tiered and said that management and monitoring of zones is difficult. On the State Plan centers, she advocated that the constraints and environmental resource areas as well as center itself should be mapped.

Chairman Weingart adjourned the meeting, as there was not a quorum to entertain a motion to adjourn.

**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: September 18, 2007

  
Paula M. Dees, Executive Assistant

**TRUE COPY**

① My name is Hank Klumpp.

I'm a farmer in Tewksbury and own 150 acres in the Highlands Preservation Area.

For three years, I've been standing before this council.

That is how long you have had my families' future in your hands.

People find it incredible that a council of fifteen people - who

come and go like the wind - could

be making such drastic decisions

concerning property that has

been in my family for three

generations. It's a council with

2

members standing to lose nothing and an audience usually filled with environmentalists - many paid - who seem to think it is just fine to steal my property values. These meetings are never scheduled to accommodate a farmer's schedule and yet it is the farmer who stands to lose life investments if the Highlands Act - that was suppose to hurt no one - isn't totally revised to stop the theft and totally compensate landowners with the real estate values

3

they are entitled to. The fairness of this matter is really quite simple and doesn't require a quarter of a million dollar planner to figure out. The truth speaks for itself. My property value is being stolen. My property was not in the original Highland Preservation Area. Mysteriously, the boundary line was moved over by an eraser in the hand of a politician.

Hank Klumpp  
24 Longview Road  
Lebanon, NJ 08833  
908 832 1734

Comments submitted at Highlands Council Meeting of September 6, 2007 by Richard Longo.

*Original to Paula*

Attn: Ms. Paula Dees  
Executive Assistant  
Highlands Water Protection and Planning Council  
Fax: 908-879-4205



**Highland Council Meeting  
September 6, 2007**

**Comments by Richard Longo**

My name is Richard Longo. My wife, Gretchen, and I live in Boonton Township, New Jersey. We own 12 1/2 acres and we are in the Preservation Area of the Highlands. Originally, approximately 95% of my township was in the Preservation Area. For some unknown reason, the boundaries were changed and now approximately 15% of my township is in the Preservation Area. Most of the water (i.e. lakes, ponds, rivers, streams, vernal pools, and a major aquifer) is no longer in the Preservation Area, but in the Planning Area. Land values have changed dramatically. My township recently conducted a revaluation of the community. After receiving our new assessment, we appealed the land assessment portion to the township. We met with the township's tax assessor and the professional appraisal company hired by Boonton Township to do the revaluation. Our appeal was on our land being appraised and valued at the same rate as acreage in the planning area of the township. I asked the professional appraiser if he was aware of Public Law 2004, Chapter 120, "The Highlands Water Protection Act." He stated that he was from Saddlebrook or Saddle River and he didn't know anything about the law and he denied our appeal. I then filed an appeal with the Morris County Board of Taxation at a cost of a \$100.00, non-refundable filing fee. After my hearing on the County level, my assessment was reduced somewhat, but not to the extent of the substantial loss of value of our land that has occurred as a result of the Highlands Act. As the Council knows, and I know, it is stated in the law that land owners who have been harmed by the Act will be compensated for the loss of the value of their land. Is this ever going to happen? The law and the regional master plan that is being developed will dictate to landowners and municipal governments as to what they can and cannot do with the land. This Council in its infinite wisdom has to look at the problem of taxation as it relates to landowners in the Preservation Area.

The County Tax Boards and municipalities have to adopt, through the Highlands Council, and Regional Master Plan, a new classification to be given to the land in the Preservation Area so that it will be a fair and just taxation to all.

Richard Longo  
540 Powerville Road  
Boonton Township, NJ 07005  
973-334-9563

ANDREW DRYSDALE  
Land Surveyor  
32 East Fox Chase Road  
Chester, NJ, 07930  
Tel. 908-234-1079 Fax 908-234-1326

September 6, 2007

Highlands Council  
100 North Road  
Chester, NJ 07930

Good Morning,

My name is Andy Drysdale, my wife Lois and I live and own farmland at 32 East Fox Chase Road, Chester, NJ, we have been trapped in the "Preservation Area", since August of 2004, some of our land is now in the "Conservation Zone" of the Regional Master Plan. We, along with many others, are victims of Environmental Extremists who have led politicians, legislators and the NJDEP to do unnecessary things.

This is a tale of two hoaxes. The first one is probably one of the largest cover ups ever perpetrated on the people of this entire country. It is the political map of the country that depicts the conservative states as red and the socialist leaning states as blue. We all know that the Soviet Union and communist China have for many years been depicted as red. What we don't know or at least I do not know who the people were the perpetrators of this huge hoax although their intent to mislead the public is obvious.

The second hoax is the New Jersey Highlands Hoax. This hoax says that we must take away peoples property rights to save the water as well as many so called endangered species. The reality is that there will always be plenty of water and it can be purified when and where the need arises. As for the endangered species, in many cases they are more abundant than ever and can certainly be preserved without the taking of property by the state. As for the people who perpetrated this second hoax we do know who many of these people are. What we don't know here are all individual motives, but in many cases the intent was to mislead the public is obvious.

The net result of these hoaxes if they are allowed to continue will be the loss of our free and democratic society. We need to stop this cancerous growth of government now!

Thank You,



Andrew Drysdale