

**NEW JERSEY HIGHLANDS COUNCIL
NATURAL RESOURCES COMMITTEE**

**CHAIR REPORT
FOR THE MEETING OF APRIL 19, 2007**

On April 19, 2007, the Natural Resources Committee held a meeting at the New Jersey Highlands Council office in Chester, New Jersey. Notice of the meeting was provided on the Highlands Council's website. Council members present included the Committee Chair Tim Dillingham, Tracy Carluccio, and Erik Peterson. The Highlands Council staff included Eileen Swan, Tom Borden, Steve Balzano, Jim Hutzelmann, and Erin Lynam. The meeting was called to order at 9:30 a.m.

Committee Chair, Tim Dillingham gave an overview of the agenda items which included discussion of the Wastewater Management Plan (WMP) Amendments review process and discussion of procedures for review and approval of Highlands Redevelopment Sites.

The New Jersey Department of Environmental Protection's ("NJDEP") Highlands Rules, at N.J.A.C. 7:38-1.1, require that the NJDEP approve a Water Quality Management Plan (WQMP) amendment only after receiving a recommendation from the Highlands Council. Mr. Balzano presented an overview of the staff's proposed process for WQMP review and indicated that at the next Natural Resources Committee meeting, staff will present proposed amendments that have come to the Council via NJDEP.

Mr. Hutzelmann provided a summary of the document matrix presented in the meeting packet titled *Wastewater Management Plan Review Criteria*. The matrix outlines resource constraints for each LUCM Zone and for NJDEP equivalents under Executive Order 109 (EO 109). He noted that the "bright line" standards outlined in the matrix were applicable for new use proposed amendments. Mr. Balzano outlined the staff's proposed tiered approach to project reviews as:

- DeMinimis or stream-lined projects that staff will review and provide a recommendation to Council;
- Projects requiring joint staff-Council review; and
- Large-scale projects with multiple constraining factors.

Mr. Balzano outlined three amendment types that the Council will need to review:

- Amendments for new uses;
- Amendments for modifications to existing uses; and
- Amendments for exempt projects.

Mr. Balzano noted that staff will review exempt projects against NJDEP's EO109 criteria because the Council has no authority to review exempt projects against RMP standards. Ms. Carluccio asked if staff will only review exempt projects against EO109 criteria. Mr. Hutzelmann confirmed that staff will review against EO109 criteria and also will highlight where EO109 criteria don't match RMP standards. Ms. Carluccio offered that staff could consider reviewing exempt projects against municipal ordinances because they may be more stringent or comprehensive than the state's EO109 criteria. Mr. Balzano noted that he could foresee instances where the Council may make a recommendation during amendment review that could be in conflict with a municipal ordinance (e.g., public health and safety). Ms. Swan suggested that staff simply review and provide comment on exempt projects against both municipal ordinances and EO109 criteria. Mr. Dillingham noted the Council's limited ability to affect exempt proposed amendments, and suggested staff spend the majority of their time reviewing proposed amendments within the Council's jurisdiction.

The Committee discussed criteria to determine into which review tier a proposed WQMP amendment will be placed:

- Consistency with RMP Zone standards;
- Area of water/wastewater service;
- Amount of impervious surface generated;
- Flow requirements;
- Degree of resources impacted;
- Consistency with municipal zoning;
- Is the project phased;
- Consistency with EO109 criteria; and
- Amount of water/wastewater capacity.

The Committee discussed whether the Council would entertain any projects that don't conform to RMP standards, unless specifically exempted through a redevelopment or public health and safety waiver. The Committee discussed the need for an up-front statement of which items "open the door" for project review (e.g., redevelopment, public health and safety, clustering provision).

After receiving public comments, the Committee moved to the second agenda item regarding review procedures for Highlands redevelopment sites. Mr. Balzano referred the Committee to the document in the meeting packet, *Procedures for Highlands Redevelopment Site Approval*. The Committee discussed each section in the document. In Section 1.1(c)2, Mr. Dillingham questioned where 70% impervious surface within a proposed redevelopment site came from. Mr. Borden confirmed that the percentage is statutory language from the Highlands Act. Mr. Balzano provided an overview of the three tracks by which a site may be considered a Highlands Brownfield (Section 1.2) and outlined the three-step process an applicant must follow if seeking a Highlands Redevelopment Site Approval (see Sections 1.3, 1.4, 1.5). In Section 1.3(b)3, Mr. Dillingham noted that "site" should be "subject property."

The Committee debated the issue of whether or not to consider the type of use an applicant is proposing for the site. The Committee noted the need for the Council to discuss a policy regarding what types of uses constitute smart growth. Ms. Carluccio suggested addition of language to Section 1.6(b)2 that states that the Council will compare proposed redevelopment against either language from the Act or RMP standards for smart growth.

Mr. Balzano noted the potential issues resulting from a dual approval process by the Council and NJDEP regarding relief from standards. To minimize this potential issue, Mr. Balzano stated that staff recommends that the Council require an applicant to already have a pre-application meeting with, and an approved Highlands Resource Area Determination (HRAD) from, NJDEP prior to a pre-application meeting with the Highlands Council. Mr. Balzano outlined the general review process by which the Council reviews an approved HRAD against RMP criteria, makes a determination, provides the determination to NJDEP, and NJDEP approves or denies a Highlands Preservation Area Approval (HPAA) with a redevelopment waiver.

The Committee requested that the final draft review procedures discuss agency coordination. Mr. Dillingham requested staff add "interested parties on a Highlands Council-approved list" to Section 1.5. The Committee noted that staff and the Council will have to create a registration process for interested parties. Mr. Peterson expressed concern about the potential financial burden on the applicant. The Committee requested staff examine other agencies' fee schedules and application costs and report back to the Committee. The Committee requested staff draft an estimated review timeframe for discussion at the next Committee meeting. Upon completion of public comments, Mr. Dillingham adjourned the Natural Resources Committee meeting at approximately 1:00 p.m.