

**NEW JERSEY HIGHLANDS COUNCIL
NATURAL RESOURCES COMMITTEE**

**CHAIR REPORT
FOR THE MEETING OF MAY 31, 2007**

INTRODUCTION

On May 31, 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 Kurt Alstede. The Highlands Council staff included Eileen Swan, Steve Balzano, Jim Hutzelmann, Carl Figueiredo, Chris Ross, and Chris Danis. The meeting was called to order at 6:05 pm.

Mr. Dillingham provided an overview of the agenda items which included continued discussion of procedures for Highlands Council review of amendments to Wastewater Management Plans (WMPs), preliminary discussion regarding the *Mansfield Township Area-wide WMP Amendment*, continued discussion of procedures for review and approval of a Highlands Redevelopment Site, and preliminary discussion on an application for a Highlands Redevelopment Site Approval for the *Heath Village Retirement Community, Washington Township, Morris County*.

PROCEDURES FOR HIGHLANDS WQMP CONSISTENCY DETERMINATION

Mr. Balzano directed Committee members to a deliberative document in the meeting packet titled "Procedures for Highlands Water Quality Management Plan Consistency Determination." He referred to Section 1.2 titled Review Thresholds and, specifically, to Table 1 – Highlands Council WQMP Review – Review Thresholds and Action Protocols (attached for reference). Committee members discussed the staff recommendation for three levels of review based upon the scope and complexity of a given WMP as follows: 1) Staff recommendation with report to Natural Resources Committee and Highlands Council; 2) Natural Resources Committee Action with report to Highlands Council; and 3) Highlands Council Resolution with recommendation from Natural Resources Committee.

Mr. Balzano indicated that for projects that are exempt from the Highlands Act, the staff recommendation is that there would be no Highlands Council review during this period of pre-Plan Adoption. He noted that the standard of Highlands review for exempt projects is based upon NJDEP's existing Executive Order (EO) 109 and therefore, the staff would essentially be re-doing the analysis that NJDEP performs under their EO 109 review.

Ms. Carluccio expressed concern that the NJDEP is utilizing Landscape Version 2.0 data for review of potential threatened and endangered (T&E) species habitat whereas the Highlands Council staff utilizes the more up-to-date Landscape Version 3.0. Thus, by by-passing Highlands staff review, potential T&E habitat could be left undiscovered. Mr. Balzano indicated that NJDEP will soon be issuing a Public Notice regarding the release of Landscape 3.0 data and that all interested parties will soon have access to the updated data and we have been advised that NJDEP will then utilize the updated Landscape data for their reviews. Ms. Carluccio expressed concern about the time gap that

will exist from now until that data set is publicly released. Mr. Dillingham recommended that staff establish a “triage” approach for evaluating in-coming WMPs for exempt projects. Mr. Balzano noted that in Table 1 of the procedures document, the review threshold for exempt projects will be changed from “All” to “As needed.” He indicated that exempt project #3s (prior approvals) will be reviewed by staff and staff will provide a recommendation of thresholds for review of exempt projects.

Mr. Balzano continued explaining Table 1 regarding review thresholds. He pointed to the staff recommended thresholds of total wastewater flow of 8,000 gallons per day (gpd) and total service area of 20 acres. The staff recommended that site specific projects within these thresholds or within the Planned Community Zone be deferred to staff for review and recommendation, while all other site-specific amendments in the Conservation/Protection Zone and/or exceeding the thresholds cited above would be subject to Committee review. All area-wide plans would be referred to resolution by the full Council based on the recommendation of the Committee. Mr. Dillingham noted that several Council members requested to see all WMPs and WMP amendments. Ms. Swan pointed out that the Council members have yet to see the fleshed out review thresholds and that when they do, they will likely have a better appreciation of the value of the recommended tiered approach to reviewing WMPs and WMP amendments.

Mr. Balzano discussed WMP amendments with respect to Highlands Redevelopment Area Approvals. He noted that staff recently met with NJDEP, who indicated that Redevelopment Areas approved by the Highlands Council that have received a Highlands Preservation Area Approval (HPAA) with a Redevelopment Waiver would automatically be issued an approved WMP amendment as part of the HPAA approvals. Mr. Dillingham asked if the process takes into consideration wastewater flow capacity. Mr. Balzano replied that wastewater flow capacity is part of a Redevelopment Area review by the Highlands Council.

With respect to the staff recommended level of review – “Council Resolution”, Ms. Carluccio noted that Table 1 also includes a category of “Others as may be determined by the Natural Resources Committee” (in addition to all area-wide amendments). She asked what role the Council members might play when the Committee is considering under which review level a WMP or WMP amendment would fall. The Committee members agreed that it would be advantageous to report to the full Council in advance what applications are being considered by the Committee so that they can decide whether or not to attend a particular Committee meeting.

Mr. Alstede indicated that applicants should be notified when the Committee will be discussing their specific project. It was agreed that staff will send the applicant a notification letter. Ms. Swan indicated that staff will draft a generic notification letter for Committee review.

Mr. Alstede wanted to circle back to projects that are exempt from the Highlands Act. He expressed concern that it was not the Legislature’s intent for the Council to offer an opinion on exempt projects and Council should not provide an opinion. Ms. Swan noted that earlier in the meeting, the Committee had agreed that staff would only be reviewing certain exempt projects. Mr. Dillingham noted that the Council has a mandate to review exempt projects under separate statutes and regulations – including and Water Quality Management Act and the DEP’s Highlands rules. Ms. Carluccio further pointed out that Mr. Borden had provided legal opinion to the Committee that other statutes mandated that the Council comment on all WMPs and WMP amendments.

Mr. Alstede referred back to the earlier discussion on threatened and endangered species and the use of Landscape data. He noted that the Council should verify the validity of the Landscape data. Mr. Dillingham and Ms. Carluccio pointed out that the Committee's recommendations included the ability of the applicant to refute any findings of the Council.

Mr. Dillingham invited members of the public to comment. Following is a summary of the comments provided:

- Expressed concern that Planned Community Zones in the Preservation Area would have different standards from the Act's intended standards within the Preservation Area.
- Suggests that the Council engage in a dialogue regarding protection of endangered and threatened species with property owners because many would be amenable to stewardship practices, if they had the knowledge that there was sensitive habitat on their property.
- Suggests that a listing of projects being reviewed by staff be made available to the public, such as posting on the website.

Mr. Balzano continued to walk the Committee through the WMPs review procedures document which includes application procedures which are consistent with NJDEP requirements. Committee members agreed that the document should make clear those items that are required beyond the NJDEP's requirements (i.e., those that are required specifically for the Council review and are not required by NJDEP). It was agreed that Section 4.0 should be titled "Council Review" of Sewer Service Areas versus "Delineation" of Sewer Service Areas. Minor word changes were agreed to in Sections 4.0 and 4.2. Committee members agreed to provide staff with additional comments under separate cover.

Mr. Alstede noted that in the Agriculture section of table 2, there is mention of "deed restrictions and enforcement." He indicated that the Council should hand the role of enforcing policies to a management agency that routinely enforces agricultural policies, such as SADC. Mr. Dillingham suggested that staff have a conversation with the Department of Agriculture. Committee members agree that an agency or entity needs to be found that can, and wants to, enforce the agricultural resource protection policies in the RMP. Ms Swan indicated that she will reach out to Susan Kraft (Farmland Preservation).

Mr. Dillingham invited members of the public to comment. The only public comment with respect to this portion of the meeting was that the Council should be careful and consistent in its use of terms such as "lot size averaging" and "clustering".

WQMP REVIEW CHECKLIST

Mr. Balzano referred the Committee members to the WQMP Amendment Area-Wide Project Review Checklist contained in the meeting packet. He noted that a separate checklist would be prepared for each sewer service area in the Amendment. Mr. Dillingham noted that there would be a need for a cumulative analysis for all service areas. Mr. Balzano indicated that there would be a single staff report that reports out on the entire analysis. Mr. Dillingham invited members of the public to comment. Following is a summary of the comments provided:

- Checklist should include an analysis of historic, cultural and scenic resources
- Scenic resources must be protected such as the Musconetcong River which is a Wild and Scenic River. There is a need to protect against significant harm to the resource.

Mr. Dillingham indicated that the public should submit written comments to the Committee on how it should incorporate analysis of historic, cultural and scenic resources into WMP reviews.

MANSFIELD TOWNSHIP AREA-WIDE WMP AMENDMENT

Mr. Balzano and Mr. Figueiredo presented the GIS resource protection analysis of the Mansfield Township Area-wide WMP Amendment.

Mr. Balzano noted that it is the intent of NJDEP to pull back sewer service areas in the Preservation Area (except for existing wastewater generating uses) in accordance with the requirements of the Highlands Act. Mr. Alstede expressed concern that this action severely limits growth in the Preservation Area. Ms. Swan noted that the Act, not the Council, pulled back sewer service area in the Preservation Area, and that the Council is charged to determine where growth may be appropriate in the Preservation Area. Redevelopment Areas approved by the Highlands Council that have received a HPAA with a waiver from NJDEP would automatically have an approved WMP amendment.

Mr. Balzano continued showing examples of sewer service areas for the Mansfield Area-wide WMP Amendment and the GIS resource protection analysis. He provided a recommendation that prior to final adoption of the RMP that pre-existing uses limited to a single use served by an existing on-site wastewater treatment system should be treated as an exempt project and staff review should be limited to establishing a maximum wastewater treatment capacity for the site. Mr. Balzano presented another example – of a proposed project within the Protection Zone in the Planning Area. He noted that the project previously received local and state approvals and the proposed service area was largely consistent with a EO 109 level review. It was generally agreed that prior to final adoption of the RMP that staff reviews would be limited for pre-existing uses and/or pre-approved projects that satisfy the requirements under EO109. Upon final adoption of the RMP, procedures for review of WMP amendments would be re-examined and expanded as appropriate.

Mr. Dillingham adjourned the Natural Resource Committee meeting at 9:10 p.m. and carried the agenda to the next meeting of the Committee.

attachment

Table 1. Highlands Council WQMP Review – Review Thresholds

Level of Review	Criteria	Threshold
Staff recommendation with report to Natural Resources Committee and Highlands Council	WMP revisions or modifications	All
	Projects that have received an exemption from the Highlands Act under N.J.A.C 7:38	As directed by Natural Resource Committee
	Site-specific WMP amendments	Total wastewater flow \leq 8,000 gpd, or total service area of \leq 20 ac, or service area contained within LUCM Planned Community Zone only
	Site-specific WMP amendments under a redevelopment site designation previously approved by the Highlands Council	All
Natural Resources Committee Action with report to Highlands Council	Site-specific WMP amendments	Total wastewater flow $>$ 8,000 gpd
	"	Total service area $>$ 20 ac
	"	Proposed service area expansion within Conservation/Protection Zone
Highlands Council Resolution with recommendation from Natural Resources Committee	Area-wide WMP amendments	All
	Others as may be determined by the Natural Resources Committee	