

NEW JERSEY HIGHLANDS WATER PROTECTION
AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MAY 15, 2008

PRESENT

JOHN WEINGART)	CHAIRMAN
)	
TRACY CARLUCCIO)	COUNCIL MEMBERS
WILLIAM COGGER)	
MIMI LETTS)	
JACK SCHRIER)	
TIM DILLINGHAM)	
JANICE KOVACH)	
SCOTT WHITENACK)	
GLEN VETRANO)	
KURT ALSTED)	
ERIK PETERSON)	
)	
VIA TELECONFERENCE)	
DEBBIE PASQUARELLI)	
)	
ABSENT)	
ELIZABETH CALABRESE)	
TAHESHA WAY)	

CALL TO ORDER

The Chairman of the Council, John Weingart, called the 68th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:06 am.

ROLL CALL

The members 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 APRIL 10, 2008

Mr. Schrier introduced the motion to approve the minutes. Ms. Carluccio seconded the motion. All other members present voted to approve. The minutes were APPROVED.

CHAIRMAN'S REPORT

Chairman Weingart announced the Transfer of Development Rights Committee meeting will take place immediately after Council meeting. He announced that Senator Smith has introduced a bill to allow voters to consider a constitutional amendment to specifically dedicate water fee revenue for lands preservation. He stated that Ms. Swan will address the proposed water fee further.

EXECUTIVE DIRECTOR'S REPORT

Ms. Swan listed meetings that have taken place including the regularly scheduled County Planners meeting. The following municipal and county outreach took place: April 29th in Warren County there was a program entitled Leadership Warren sponsored by Warren County Chamber of Commerce in which Ms. Haddock-Weiler presented opportunities that are present under the Highlands Act, Dr. Van Abs presented at the NJ Water Environment Association on Waste Water Management planning on April 30, Ms. Swan met with District 24 Legislators to bring them up to date on the plan, and Ms. Haddock-Weiler attended a workshop on the crossroads of the American Revolution.

She also detailed the testimony that was given at the Senate Environment Committee on amending the Constitution regarding a water fee for open space and farmland preservation and specified that there was a copy of the summary of that testimony in the packets today. Ms. Swan pointed out that the Highlands Act includes a specific mandate regarding the strong and significant commitment of the State to fund the acquisition of exceptional natural resource lands. Ms. Swan emphasized the connection with the Council's mission and the need for a water fee so that those users for water from the Highlands regions could share the burden of the protection of that resource. Ms. Swan stated that a packet, provided to Council members, has been put together for all Mayors in the Highlands regarding this issue asking for their support of the water user fee. A letter has also been prepared for all State Senators along with the listing of all municipalities in their area that receive water from the Highlands Region. At this stage the Senate Environment Committee is only considering the constitutional amendment and further work may be necessary on the companion bill.

Ms. Swan also announced upcoming meetings including the County Planners Meeting and an informational meeting in Franklin Borough in Sussex County regarding the Regional Master Plan and its implications.

COMMITTEE REPORTS

There were none to report.

CONSIDERATION OF RESOLUTION – *Support for Constitutional Amendment to Dedicate Revenue for Open Space and Farmland Preservation*

Ms. Swan noted that the public has copies of the Senate concurrent resolution and the related testimony. Mr. Schrier moved the motion and Mr. Dillingham seconded the motion.

Mr. Schrier spoke about the Council's repeated discussions on the use of a water fee. He explained that this would be an amendment to the Constitution, expressed support for the issue of landowner equity and fairness, and was concerned that the companion bill would not be specific to the Highlands Region, but would be broad in its scope.

PUBLIC COMMENTS:

David Shope: He explained there is already a water usage fee enacted by the Water Supply Authority that was used for the preservation of lands pertinent to water...He also explained that the North Jersey Water Supply District also has a similar user fee for land preservation. He cited the lawsuit with Warren County and the supporting testimony for that case regarding costs. He estimated \$35 dollars per million gallons and said he would supply the Council with the figures regarding this. He believes that a smaller number would help to get this amendment passed.

Julia Somers, NJ Highlands Coalition: In the 4th “Whereas”, she pointed out that historic preservation has been left out and is requesting that it be added. Regarding Senate Concurrent Resolution 88, she stated that there are no numbers mentioned, asked the Council to support this bill, and asked that the Council request at least \$150 million each year.

Mr. Schrier reemphasized that this resolution isn’t tied to any specific piece of legislation, but that it is to support the idea to present voters the possibility of water fee. He expressed concern about there not being exact figures available.

Mr Vetrano spoke about the importance of the monies being dedicated to preservation and not being used for other issues.

MS. PASQUARELLI JOINED THE MEETING VIA TELECONFERENCE.

ALL PRESENT VOTED IN FAVOR OF THE RESOLUTION. THE RESOLUTION WAS APPROVED.

ERIK PETERSON JOINED THE MEETING.

CONSIDERATION OF RESOLUTION – *Approval of Certain Planning Assistance Grants*

Ms. Swan explained that there are two separate grant resolutions. The first resolution is a proposed grant for the Township of Clinton for a COAH fair share grant in the amount of \$7,500.

Mr. Dillingham introduced the motion to approve the resolution and Ms. Letts seconded the motion.

PUBLIC COMMENTS:

DAVID SHOPE – Mr. Shope questioned the amount of money that has given to Clinton Town and Clinton Township. Ms. Swan explained this would be the first grant for the Township.

ALL MEMBERS PRESENT VOTED IN FAVOR. RESOLUTION WAS APPROVED.

Ms. Swan then described the second resolution which was for the Township of Chester for an initial assessment grant. Mr. Cogger, as Mayor of the Township, recused himself and left the room.

Mr. Vetrano introduced the motion to approve the resolution. Mr. Whitenack seconded the motion.

Ms. Letts asked about the large costs for Plan Conformance and whether it was possible to increase the grant amount if needed. Ms. Swan explained that this grant is not for Plan Conformance but to consider the implications of the RMP for the specific municipality but the amount could be increased by petitioning the Council. She added that there will be additional funds available for each of the required elements of Plan Conformance.

ALL MEMBERS PRESENT VOTED TO APPROVE THE RESOLUTION. (MR. COGGER ABSTAINED).

REGIONAL MASTER PLAN DISCUSSION

Ms. Swan then began a PowerPoint presentation on the Regional Master Plan.

a. Carbonate Rock (Karst)

Ms. Swan outlined the revisions to the Goals, Policies and Objectives (GPOs) regarding Carbonate Rock (Karst). She explained changes and additions within the text that clarify that karst is not strictly a surface condition, an expanded description of the functional values that carbonate rock provides, and that focus on the importance of prolific carbonate rock aquifers within the Region. She also cited two objectives in the context of areas with karst features, one regarding prohibiting new land uses and facilities which would constitute unacceptable risks and the second prioritizing upgrades or remedial actions for existing high risk land uses and facilities.

Ms. Carluccio spoke about 1k4e and 1k4f, and suggested that superfund sites be added and that the existing solid waste landfills and hazardous waste sites listed under 1k4e be added to 1k4f in regards to remedial action.

b. Prime Ground Water Recharge

Ms. Swan explained that the 2006 and 2007 Draft RMPs did not specifically address the water quality issues relating to prime ground water (GW) recharge. These would now be addressed. Also the staff has proposed that the 125% mitigation requirement continue but be clarified that it applies to the portion of the Prime GW Recharge Area that is developed. It has also been recommended that there be a clear policy for the use of low impact development within Prime GW Recharge Areas and that a scale of permissible disturbance be created which would be most stringent in the Protection Zone. In order to address water quality issues the staff has proposed that potential contaminant sources be prohibited in the same manner as WHPA Tier 2 and that wastewater utility expansions or creations be limited in the Prime GW Recharge Areas within the Protection and Conservation Zones. Ms. Swan then presented a table which gave an overview of the proposed new approach.

Ms. Carluccio asked for clarification on 2d4a regarding clusters encroaching on Prime Ground Water Recharge areas. Dr. Van Abs then explained that there is not an absolute cap on clusters, but they will be encouraged with the least amount of disturbance.

Ms. Carluccio strongly stated her disagreement with clusters being able to encroach on these areas. She explained the negative affects to the ground water that will occur if clusters are not prohibited in Ground Water Recharge areas, in particular ground water pollution and increased nitrates. She suggested a complete prohibition of growth in Ground Water Recharge areas. She stated that this policy change is against what the Council has been charged to do and is also against what has been requested in public comment. Ms. Swan clarified that clusters will be presented for the Council's approval separately.

Ms. Cogger asked if these limitations can be questioned through a waiver. Mr. Borden clarified the three waivers and explained that they are limited and so would not address all cases.

Ms. Pasquarelli questioned whether maximum disturbance means impervious cover and asked for clarification. She stated that this is a major policy shift and questioned its origin. Ms. Swan explained that this was initiated with the Canfield project when inconsistencies became apparent it was also an issue in the March 27 issue paper the Council had been given. She stressed that though the policy was adding flexibility in the Protection Area it was addressing the other zones where no protection had been provided. Dr. Van Abs agreed with Ms. Swan that there currently is no policy that addresses Prime Ground Water Recharge area in certain zones, so this is that is being addressed. He also agreed that this policy could be restated regarding impervious cover for clarification.

Dr Van Abs spoke of the percentages as being policy decisions based on what is typically allowed by local governments which led to the 45% in the Existing Community Zone and then was more protective in the other more sensitive zones.

Ms. Paquarelli questioned why 15% is being allowed in the Protection Zone. Dr. Van Abs explained that the 15% maximum disturbance is addressing only the Prime Ground Water Recharge area being disturbed and not the total site which will be affected by other resource protections.

Mr. Dillingham stated that these changes are going in the wrong direction and that the Prime Ground Water Recharge areas are critical to protect. He suggested that these areas not have any development. He stated his concern that even low impact development will not be enough to allow significant recharge and protection of the resources. He gave an example of the maximum disturbances that are used in the shore areas.

Ms. Carluccio suggested that the disturbance be limited to 0% in the Protection Zone and that waivers can be used for exceptions. She stated that there should be standards within the other zones with lower percentages of disturbance allowed. She explained the importance of limiting and avoiding pollution and disturbance within Prime Recharge Areas. Ms. Carluccio asked that the Council reconsider these percentages using supportive scientific data.

Mr. Whitenack asked if it is possible to set limitations that will lessen the waiver process.

Mr. Schrier stated his support of Ms. Carluccio's statements and request for a white paper on this topic. He said that the Council needs to be more informed on this topic. He agreed that the administrative burden of waivers needs to be eased while still protecting the resources adequately. He does support flexibility.

Chairman Weingart asked Ms. Swan for the staff to create a white paper for the Council so that they can become more informed on this issue. Mr. Dillingham stated that the policies need to be clear enough that they will minimize pollution and disturbance and guide development to the appropriate areas..

Ms. Swan spoke about the next phase of the property search tool which will allow all to see the layers and thus know where there is potential for development that is consistent with the protections of the RMP. . Mr. Dillingham responded that the tool needs to be supported by clear policies.

c. Transportation

Ms. Swan then discussed the text changes within the Transportation GPOs. Clarification was made regarding the need to evaluate transportation projects that may result in unintended growth or growth inducing effects due to increased motorized vehicle roadways as well as to show when a shared parking study may be appropriate. She stated that text was added regarding the requirement to promote a sound and balanced transportation system consistent with smart growth principles, recognizing the role and agency coordination of the 13 county Metropolitan Planning Transportation Region, and recognizing the shuttle as a form of local transit. There were also policies added to this section regarding the role of regional airport facilities and regarding scenic byways and corridors within the Region.

Mr. Alstede asked that the language state that it shall include projects not just recognize projects. Ms. Swan stated that the projects that are being studied for the region are not yet complete and that the staff will work with consultants in order to be able to pick which projects are the ones that should be focused upon as being most consistent with the RMP and most likely to be funded and implemented. Ms. Swan stated that the Transportation Program will address this issue further.

d. Redevelopment

Ms. Swan continued her presentation with a review of the GPO revisions to the Redevelopment Programs and Policies. She explained that a more detailed description of appropriate redevelopment activities for each LUCM Zone in the Planning area was added and that these activities may be approved through Plan Conformance or Highlands Redevelopment Site Approval. Municipal Plan Conformance requirements were also updated to include identification of development, redevelopment and brownfield opportunities as well as development regulations and zoning amendments to enable project implementation of identified redevelopment initiatives. Lastly, there was clarification on the long-term initiative of preparing enhanced remediation standards for application in the Region to ensure resource protection.

Ms. Carluccio requested that, regarding 6L1, the statement “where appropriate” be added so that municipalities don’t believe that they have to create this infrastructure. She also mentioned 6m1d and asked if there was a mechanism in place with NJDEP regarding this policy or if the Highlands will have their own version. Dr. Van Abs explained that the Council has the ability to recommend to the NJDEP to make amendments. She expressed her support for this policy.

e. Smart Growth

Ms. Swan then outlined the changes regarding the GPOs for Smart Growth and low impact development as well as the expansion of the objectives aimed at achieving smart growth principles. She pointed out that modifications were made in this section to describe low impact development as an element of smart growth which uses the natural features of that land as a guide. There was elaboration on how low impact development strategies will be utilized in the design and development of both stormwater management and resource management plans. Techniques for low impact development were then described including general strategies, site design and development, stormwater management, and resource management.

Mr. Dillingham encouraged the Council to be cognizant of the issues with NJDEP's point system that is in place within their Stormwater policies.

f. Landowner Equity

Ms. Swan explained that this section was changed from Landowner Fairness to Landowner Equity in response to public comments. She stated that language was revised in two policies to reflect that the TDR Program is not limited to the Preservation Area.

Mr. Dillingham stated that given the limitations of the TDR program he believed the focus should be primarily on the Preservation Area. Ms. Swan explained that there are pertinent areas within other zones as well which may be deemed appropriate through Plan Conformance, at the Council's discretion, for TDR sending areas.

Mr. Dillingham questioned 7b9 and stated that it needs clarification particularly regarding the Preservation area. Mr. Borden stated that this will be discussed at the TDR meeting after the Council meeting.

Mr. Alstede asked if there was any movement regarding a general equity statement as he had requested previously. He believes it is important for the Council to state that landowner equity is a priority for the Council. Ms. Swan asked Mr. Alstede to forward his recommendations for the Council's consideration. He also asked for clarification that the allocation of credits will be available prior to release. Ms. Swan answered that the allocation process would be complete by adoption of the plan. Chairman Weingart suggested that any council member who had a suggestion on a Land Owner Equity statement could provide it to Ms. Swan.

Ms. Swan continued her presentation stating that revisions were made to clarify that the allocation of Highlands Development Credits to sending zone parcels are also effected by the choice not to exercise a Highlands exemption. Regarding receiving zones, there was language added to indicate that the establishment of receiving zones must be consistent with the RMP protection policies and must show infrastructure capacity. There was clarification that municipalities outside of the Highlands that choose to establish receiving zones must seek Plan Endorsement from the State Planning Commission. Lastly, Ms. Swan explained that language was revised to indicate that the Planning Area municipalities that do not conform but would like to establish receiving zones must still receive Plan Endorsement from the State Planning Commission as per the State TDR Act.

She then presented the new landowner equity policies that suggest the need for legislation that permits municipalities outside of the Highlands counties to designate Receiving Zones that may accept Highlands Development Credits, and legislation that would require the payment of a fee to the HDC Bank for any increases in density or intensity of development outside the Highlands region that relies on water sources coming from the Highlands Region.

Ms. Letts stated her concerns regarding the ability to enforce this policy. There was discussion about the timing of the implementation of this fee and whether it will be retroactive or effective the date of the legislation. Mr. Dillingham recommended the language "to advance the success of the TDR program" be added. The Council supported that idea.

g. Sustainable Economic Development

Ms. Swan continued her presentation explaining that there was clarification regarding the municipal Plan Conformance requirement to develop an economic plan element (where appropriate) that provides strategies for achieving sustainable and appropriate economic development and that development, redevelopment and brownfield opportunities were identified. She also stated that the approach of establishing a Highlands tourism program was changed to support existing programs

and that the language had been broadened in regards to the development and enhancement of the region's tourism infrastructure. Ms. Swan discussed new economic development policies and objectives that address public-private partnerships, positive fiscal impact to local governments, preservation of the high quality of life in the area, and the development of a fiscal impact analysis regarding implementation.

Mr. Alstede questioned local jobs and job loss as addressed in 8A1 and how this is going to be tracked. Ms. Swan explained that the regional buildout analysis will address implications regarding jobs and job loss, but it will not be specific to each area. Mr. Alstede asked if it is a goal to maintain businesses within the Highlands and whether job opportunities will be a priority. Ms. Swan explained how redevelopment opportunities, underutilized lands, and eco and agri tourism jobs may, in part, address this issue. She stated that there could be a cross reference regarding redevelopment opportunities and waivers for necessary growth within local businesses.

Ms. Letts supported Mr. Alstede's concerns regarding the loss of local businesses due to limitations. Mr. Dillingham stated that the Council should not support the expansion of businesses on undisturbed lands. Mr. Schrier expressed his support of the Council promoting, where appropriate, the expansion of existing local business. There was then a discussion about the appropriate ways to support the local economy which will allow flexibility while still protecting resources.

Chairman Weingart suggested that fliers be created for landowners, business owners, farmers, etc so that people can understand the implications of the plan on their particular situation.

Ms. Carluccio recommended that within Policy 8a6 that "required" be changed to "encouraged". Ms. Swan explained that a comprehensive plan is essential for achieving sustainability and should include an economic plan if any opportunities exist or are desired.. Ms. Carluccio asked for a clear model of the economic plan. Mr. Cogger clarified that most municipalities will have a version of an economic plan in place for the local master plan. There was then discussion on the use and the importance of an economic plan for municipalities to look at their needs and potentials for growth for the future, and how this plan will vary by municipality.

Chairman Weingart asked about language being added "consistent with RMP and desired by the municipality" to the statement on sustainable economic development and the need for a plan. He also asked about the language "economic plan element" and the possibility using "development and redevelopment plan" instead. Mr. Dillingham asked if this statement is an encouragement for growth. Ms. Swan stated that this is to guide municipalities to create a plan only if they want to grow and it is appropriate. Mr. Schrier agreed with Chairman Weingart's request for a language change but requested that "desired by the municipality" be set before "consistent with the RMP". Ms. Carluccio again recommended that that "required" be changed to "recommended". The Council agreed on the inclusion of "desired by the municipality" and "consistent with the RMP".

h. Air Quality

Ms. Swan presented changes to the Air Quality GPOs, including the addition of text to clarify that the monitoring and assessment of air quality be consistent and recognize power plants, landfills, and incinerators as sources which are included in the State and Federal Monitoring programs. There was also further clarification that the RMP energy efficient and green building policies support both the State Global Warming Response Act and the Energy Master Plan. Lastly, Ms. Swan explained that

changes were made within the language regarding air toxins to recognize additional key air toxic compounds consistent with State and Federal Programs.

Chairman Weingart announced that the next meeting would take place on May 22, 2008 at 4 pm and then opened the floor for public comments.

PUBLIC COMMENTS:

HELEN HEINRICH, NJ Farm Bureau – Ms. Heinrich discussed the economic plan and the need for towns to focus on supporting local businesses (particularly agricultural businesses and small businesses). She also suggested that all growth require economic planning that covers all of the necessary aspects. She expressed concerns about the lack of coordination between different programs and the costs of development, but did express support of the water fee. She questioned whether the staff has been able to add all of the map layers for an area, as she has found that this results in a totally black area. She recommended allowing some flexibility within recharge areas.

DEBRA POST, Chester – Ms. Post discussed the presentation and the policies of the Transportation section. She explained the benefits of dirt roads and the removal of impervious cover. She also argued that the waiver process is a large financial burden and isn't a feasible possibility for most individuals. She said there should be grants for individuals to help with the costs of waivers. Ms. Post brought up Mr. Dillingham's point regarding fees being used for infrastructure and not the HDC bank and believes this states that landowners need not be compensated. She discussed the lack of feasibility regarding eco-related jobs and businesses. Lastly, she stated her opinion that the TDR program is being inappropriately inflated outside the Preservation Area. She then outlined the issues within the TDR program and the exemption process. She stated that the just compensation money should be used only for effected landowners and that landowners within the Preservation Area should be the first compensated.

ELLIOT RUGA, NJ Highlands Coalition - Mr. Ruga supported the proposal that the Council will revisit the development allowed within Prime Ground Water Recharge Areas. He read sections from page 323 of the RMP regarding the Prime Ground Water Recharge areas.

JAMES TRIP, General Council of Environmental Defense Fund – Mr. Trip explained that the primary involvement of the Environmental Defense Fund in guiding the Highlands staff has been within the TDR receiving area program. He stated that the 15% is far too high within the Prime Ground Water Recharge areas. He stated that the Council should be limiting clustering to existing clusters within prime recharge areas. He stated that the only waiver of significance is regarding avoiding a takings. He recommended a septage use cap and trade program particularly where a takings may be an issue. He stated that adding any nitrates to a prime recharge area is of high value and should be treated as such. He suggested that regarding redevelopment and smart growth, that there be a reference of this in the TDR receiving area program. He stated explained that landowner's receiving appropriate equity will happen over time, not immediately. Mr. Trip stated that vacant land will be the largest area that will be available for a TDR program immediately. He explained that there is potential to achieve significant value within receiving area lands. He believes it is important that there is receiving area capacity that is immediately available with significant value for the TDR Program to be successful.

BILL KIBLER, South Branch Watershed Association - Mr. Kibler returned to the discussion on allowing municipalities to use the NJDEP statewide nitrate standard for determining septic densities. He explained that the NJDEP nitrate standard doesn't protect or enhance water quality, which the Council is supposed to do. The Council needs to support its own science and uphold their nitrate standard. The NJDEP even recommends that a stricter nitrate standard may be appropriate. Regarding the impervious surface discussion, he stated that there should be 0% development within the Prime Ground Recharge Area. The percentages that were presented today were far too high. Lastly, he noted that the South Branch Watershed Association supports the idea of a water use fee.

ANDY DRYSDALE - Mr. Drysdale explained why New Jersey is not business friendly. He also discussed his lack of support for the plan. He explained the poor use of money within the government. He spoke about statistics mentioned in "Putting Taxpayers First". He asked the Council to overturn the Highlands Act and stop abuses of power in government.

JULIA SOMERS, NJ Highlands Coalition - She discussed a Star Ledger article regarding real estate in New Jersey. She brought up the difference between impervious cover and disturbance. Ms. Somers also expressed that the percentages that were presented are too high. She also requested that the Council ask for public comment before taking any votes or polls during Council meetings. She recommended that the Council look at existing science, particularly with regards to recharge areas. Lastly, she did thank the Council for strengthening and clarification on karst.

DAVID SHOPE, Farm bureau member - He brought up Debbie Post's idea regarding that a small fraction of each building permit be set aside for landowner equity. He requested a peer reviewed medical study on the detriment of water with nitrate over 10 milligrams per liter. He questioned the stronger nitrate standards within the Highlands Region. He also questioned the science behind the set nitrate standards. Mr. Shope requested the science behind the water deficit areas. He then discussed the legal climate of the state and how it makes New Jersey very business unfriendly, particularly the use of junk science within the Courts. He explained that younger generations are not continuing to farm which will then create many acres of previous farmland being available on the market.

WILMA FREY, NJ Conservation Foundation - Ms. Frey agreed with the changes in the Smart Growth section and agreed with Mr. Dillingham's statement not to follow NJDEP's stormwater management. She commented on the Transportation section, mentioning that the transportation goal is only for the Planning Area according to the Act. Regarding landowner equity, they would like to see sending areas in the Planning Area because there are sections that need to be protected. She addressed the water resource section and her shock regarding the percentages that were proposed. The numbers were much higher than what has been recommended by other agencies. She questioned why many rivers and corridors are not within the Preservation Area. She stated that there are prolific aquifers within different areas and that because they are critical they should be looked at separately. Lastly, she said that the percentages should not be changed and should remain the lower standards as stated in the original plan.

SYLIVA KOVACS, Warren County - Ms. Kovacs stated her agreement for a sustainable agricultural environment. Regarding Prime Groundwater Recharge Areas, she agreed that low impact development hasn't been supported enough to show that it will not affect water resources. She stated that it is essential for the Council to look into the enforcement of low impact

development. Then she addressed the percentages within the development in Prime Ground Water Recharge areas and pointed out that the Council needs to not push development. She stated her support for the water fee.

MS. ANDERSON, Lebanon Township – Ms. Anderson supported Mr. Alstede’s comment on creating a statement of priority regarding landowner compensation. She urged emphasis for funding in the Preservation Area. Then she asked that the age of landowners be considered regarding compensation.

JOHN MALAY, Raritan Highlands Compact – Mr. Malay recognized the large amount of work of the council and staff. He discussed the COAHs regulations. He found that there seems to be conflicting information coming out of different meetings with different entities. Mr. Malay stated that COAH and DCA will be requiring businesses to pay onerous fees. He supports the Council’s mission, but is concerned about the relationship between COAH regulations and Highlands plan. Lastly, he discussed the water fee and suggested that the Council focus on the memorandum of understanding with COAH because of the differences and conflicts in policies.

Mr. Dillingham recommended that the staff look into the zones of the aquifers and water resources when preparing the white paper for recharge areas. He asked for a clearer understanding between COAH regulations and the Highlands plan and how these affect municipalities. He also sought additional legal analysis regarding whether COAH regulations override, or trump, the Highlands plan.

Chairman Weingart repeated that the next Council meeting will be May 22, 2008 at 4pm. There was a motion to adjourn and it was seconded. *All Council members approved and the meeting was adjourned.*

<u>Vote on the Approval of these Minutes</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Abse nt</u>
Councilmember Alstede	✓			
Councilmember Calabrese			✓	
Councilmember Carluccio	✓			
Councilmember Cogger	✓			
Councilmember Dillingham				✓
Councilmember Kovach	✓			
Councilmember Letts	✓			
Councilmember Pasquarelli	✓			
Councilmember Peterson				✓
Councilmember Schrier	✓			
Councilmember Vetrano				✓
Councilmember Way				✓
Councilmember Whitenack				✓
Councilmember Weingart	✓			

PUBLIC COMMENTS SUBMITTED

Highlands Council members:

As we prepare for another Council meeting, not having seen the documents being prepared for discussion, the public is only aware that the Council will be revisiting eight issues for discussion. All are of concern, but in our office three are of particular concern: Carbonate Rock (Karst), Prime Ground Water Recharge and Redevelopment. In fact, Prime Ground Water Recharge was not even on your earlier list of "Issues for Discussion," so this is a surprise to us. We hope nothing is being proposed to weaken what protections there are for recharge areas.

To help you with preparation for these discussions, I have included below some excerpts from the Highlands Water Protection and Planning Act of 2004 that I hope will be helpful in informing your thoughts:

Sect. 11. a. "The regional master plan shall include, but need not necessarily be limited to:

(1) A resource assessment which:

(a) determines 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; 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;

Sect. 34. b. "...measures to ensure that existing water quality shall be maintained, restored, or enhanced, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, in all Highlands open waters and waters of the Highlands, and to provide that any new or expanded point source discharge, except discharges from water supply facilities, shall not degrade existing water quality. In the case of water supply facilities, all reasonable measures shall be taken to eliminate or minimize water quality impacts;

Sect. 34.e. "...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;

Sect. 34.k. "...k. a prohibition on development that disturbs upland forested areas, in order to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats; and standards to protect upland forested areas that require all appropriate measures be taken to avoid impacts or disturbance to upland forested areas, and where avoidance is not possible that all appropriate measures have been taken to minimize and mitigate impacts to upland forested areas and to prevent soil erosion and sedimentation, protect water quality, prevent storm water runoff, and protect threatened and endangered animal and plant species sites and designated habitats.

All of these sections include references to water quality and water quantity. There are other sections I could quote, but these should be helpful. They also pointedly remind one why Coalition members are leery of the failed experience in New Jersey with mitigation (as is still proposed in the RMP for water deficit subwatersheds) being used to help new development go forward in places it should not occur.

If you have any questions, please do not hesitate to call me at 973-588-7190 or 973-525-2768 (cell). Many thanks.

Julia Somers, Executive Director, New Jersey Highlands Coalition

ANDREW DRYSDALE
Land Surveyor
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May 15, 2008

Highlands Council
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Chester, NJ 07930

Here we are, over four years past the onerous retroactive date of March 29, 2004. The State of New Jersey has a huge debt and a reputation for being one of the most business unfriendly states in the entire country. People are leaving New Jersey to pursue a better life elsewhere, yet the white collar crime that perpetrated the "Highlands Act" continues to be condoned.

On February 28, 2008 the Highlands council authorized an annual amount not to exceed \$1,500,000 for "Initial Assessment" grants to municipalities within the seven Highlands counties in furtherance of plan conformance. I am not sure what the nasty stick is but this certainly is a rotten carrot.

In a May 1, 2008 article in the Daily Record of Morris County regarding the merger of the Chesters it was stated, "Corzine announced earlier this year his plan to cut state tax relief aid in half for communities with under 10,000 residents and eliminate it altogether for those with populations smaller than 5,000. He also made about \$32 million available to towns wishing to explore mergers." It is obvious in this statement what the nasty stick is and a \$32 million rotten carrot shows us how wasteful government can be. This money could have been used for honest purchases of development rights.

When you first hear of it, it sounds good, "consolidation of services" but when you examine it further, you can see how bad the whole idea is without spending \$32 million to come to that conclusion. First, it is a dilution of your vote. Second, history shows us that though there could be some meager savings at first, very large communities have a much larger cost per capita for government services. See Steve Lonegan's book, "PUTTING TAX PAYERS FIRST", page 77 for statistics.

Bigger is not always better and forced or bribed consolidation are only tools used by socialists to promote their agenda and increase their power over the people.

Please, Highlands Council, help us stop these abuses of power, tell the legislature, the Governor, and the bloated NJDEP to stop this nonsense and that a good first step would be to overturn the ill-conceived Highlands Act.

Sincerely,


Andy Drysdale

cc: Others

Comments submitted at Highlands Council Meeting on May 15, 2008 by David Shope, page 1 of 1

Wednesday, Apr. 23 2008

New Jersey Legal System Headed in the Wrong Direction

PR Newswire
Comtex

WASHINGTON, April 23, 2008 /PRNewswire-USNewswire via COMTEX/ -- The U.S. Chamber Institute for Legal Reform (ILR) today announced that New Jersey's legal climate has dropped nine spots to number 35 in Lawsuit Climate 2008: Ranking the States, an annual assessment of state liability systems conducted by Harris Interactive, a leading national market research firm.

"New Jersey's legal system is headed in the wrong direction," said Tom Donohue, president and CEO of the U.S. Chamber of Commerce, "largely as a result of the plaintiff-friendly bias in a handful of trial courts, particularly in lawsuits aimed at pharmaceutical manufacturers."

For example, one court certified a nationwide consumer fraud class action exposing a drug maker to a claim for \$20 billion dollars in damages, in which the trial judge allowed the plaintiffs to proceed on a theory that would not have required any proof that any individual class member would have behaved any differently had it known more about the drug. The New Jersey Supreme Court eventually overturned the judge's decision.

New Jersey has also gained a reputation for allowing "junk science" to be admitted into the courtroom, dropping from a rank 13th to 35th in the handling of technical and scientific evidence.

"The best thing a state can do to attract business is to have a fair legal system," said Donohue. "Attitudes about New Jersey's legal climate will only improve once the courts in these individual jurisdictions stop torturing the laws to reach pre-conceived results."

ILR is launching a national advertising campaign highlighting the results of the study and the need for comprehensive legal reform.

Harris asked 957 senior attorneys to evaluate up to five states in which they were "very" or "somewhat familiar" with that state's litigation environment. Survey respondents assigned each state a letter grade for each of 12 different factors affecting the states' tort liability system, ranging from the overall treatment of tort and contract litigation to judges' competence and impartiality, and Harris computed an overall score for each state based on these evaluations.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than 3 million businesses and organizations of every size, sector, and region.

The full Harris report is available online at www.instituteforlegalreform.com.

SOURCE U.S. Chamber Institute for Legal Reform

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