

NEW JERSEY HIGHLANDS WATER PROTECTION
AND PLANNING COUNCIL
MINUTES OF THE MEETING OF JUNE 26, 2008

PRESENT

JOHN WEINGART) CHAIRMAN

COUNCIL MEMBERS

MIMI LETTS)
TIM DILLINGHAM)
KURT ALSTED)
ERIK PETERSON)
BILL COGGER)
ELIZABETH CALABRESE)
TAHESHA WAY)
SCOTT WHITENACK)
JACK SCHRIER)
GLEN VETRANO)
JANICE KOVACH)
DEBBIE PASQUARELLI)

TELECONFERENCE

TRACY CARLUCCIO)

CALL TO ORDER

The Chairman of the Council, John Weingart, called the 72nd meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:13 pm.

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 JUNE 12th, 2008

Mr. Schrier introduced the motion to approve the minutes. Mr. Cogger seconded the motion. Mr. Alstede and Mr. Vetrano abstained. Ms. Carluccio and Mr. Peterson were absent. All other members present voted to approve. The minutes were APPROVED.

CHAIRMAN'S REPORT

Chairman Weingart reviewed the meeting schedule stating that there would be a meeting on July 10th at 10 a.m. in Chester and one on July 17th at 10 a.m. which would be held at the Morris County Arboretum. He also spoke about letters sent to the Council (about 18) objecting to a policy

mandating RMP nitrate levels in the Planning Area for non-conforming municipalities. The letters are from legislators, freeholders, mayors, planning departments, and members of the public. He acknowledged Senator Oroho who was present. He also noted comments received from the Highlands Coalition and the Farm Bureau.

Ms. Carluccio joined the meeting via teleconference.

EXECUTIVE DIRECTOR'S REPORT

Ms. Swan reviewed meetings that have taken place: a June 20th a State Bar Association presentation by Tom Borden, a June 26th presentation with the North Jersey Transportation Authority with Ms. Swan and Chris Danis. She noted that tomorrow there is a Law International seminar where Ms. Swan will present on implementation of the RMP.

Chairman Weingart explained the process for public comment for those who haven't attended meetings previously.

COMMITTEE REPORTS

There were no Committee reports.

RESOLUTIONS

I. CONSIDERATION OF RESOLUTIONS – Approval of Certain Planning Assistance Grants (voting matter with public comment)

Summary: The Highlands Council initiated a grant application process for Initial Assessment grants to municipalities within the seven Highlands Counties in furtherance of Plan Conformance, in an annual amount not to exceed \$1,500,000. Council staff reviewed the grant applications and recommend grants for Council consideration.

1. Consideration of Resolution – Initial Assessment Grant for Bethlehem Township
The Township of Bethlehem is applying for an initial assessment grant in the amount not to exceed \$15,000. Ms. Swan explained that this is the first grant that they have applied for. There was no public comment. ***Mr. Schrier moved the motion and Ms. Letts provided a second. Mr. Peterson was absent. All other members present voted to approve. The resolution was APPROVED.***
2. Consideration of Resolution – Initial Assessment Grant for Mt. Olive Township
The Township of Mt. Olive is applying for an initial assessment grant in the amount not to exceed \$17,628. Ms. Swan specified that the Council staff reviewed and recommended approval of the Township's request for additional funds above the standard grant of \$15,000 for RMP Updates. The COAH grant they had received is satisfactorily closed. There was no public comment. ***Mr. Cogger moved the motion and Ms. Way provided a second. Mr. Peterson was absent. All other members present voted to approve. The resolution was APPROVED.***
3. Consideration of Resolution – Initial Assessment Grant for the Township of West Milford
The Township of West Milford is applying for an initial assessment grant in an amount not to exceed \$15,000. Ms. Swan explained that their COAH and MP3 grants were satisfactorily

closed. There was no public comment. *Mr. Cogger moved the motion and Ms. Calabrese provided a second. Mr. Peterson was absent. All other members present voted to approve. The resolution was APPROVED.*

4. Consideration of Resolution – Initial Assessment Grant for the Township of Lebanon

The Township of Lebanon is applying for an initial assessment grant in an amount not to exceed \$20,000. Mr. Borden explained that Council staff reviewed and recommended approval of the Township’s request for additional funds above the standard grant of \$15,000 for Master Plan re-examination. He also noted that Council staff review was completed without Ms. Swan due to her prior elected positions within the Township. Their COAH grant was satisfactorily closed. There was no public comment. *Ms. Way moved the motion and Mr. Schrier provided a second. Mr. Peterson was absent. All other members present voted to approve. The resolution was APPROVED.*

II. CONSIDERATION OF RESOLUTION – Contract with Rutgers University - Grant F. Walton Center for Remote Sensing and Spatial Analysis (voting matter with public comment)

(Chairman Weingart and Mr. Dillingham recused themselves due to Mr. Weingart’s employment with Rutgers University and Mr. Dillingham’s affiliations with Rutgers)

Summary: Rutgers University’s Walton Center for Remote Sensing and Spatial Analysis (CRSSA) has prepared a work plan to conduct analyses of the LiDAR data that was collected by the United States Army Corps of Engineers (USACE) to support the implementation of the Regional Master Plan as well as to host the LiDAR data for public review. The resolution is for the consideration of a contract with CRSSA for an amount not to exceed \$111,474.00 to complete the LiDAR-based Terrain Analysis.

Ms. Swan described the proposed contract with CRSSA and outlined the work that Rutgers will perform. CRSSA will host the LIDAR data as it is too much for the Highlands system, the contract includes hosting and maintenance for three years. She stated that the LiDAR analysis will include two pilot programs and will include a detailed analysis such that the work will be able to be continued and expanded for the entire region in the future either in house or with a contractor. The Council will receive all of the information in regards to process and all results will be available to the public including all of the Highlands municipalities.

Mr. Peterson joined the meeting.

There was no public comment on the resolution.

Ms. Kovach moved the motion and Ms. Letts provided a second. Chairman Weingart and Mr. Dillingham recused themselves. All other members present voted to approve. The resolution was APPROVED.

III. CONSIDERATION OF RESOLUTION – Establishment of Highlands Development Credit Bank (voting matter with public comment)

Summary: The proposed Resolution would create the Highlands Development Credit Bank (Bank) as a development transfer bank for implementation of the Highlands TDR Program. Its functions would be to serve as: a regional clearinghouse for information with regard to the Highlands

Development Credit Program, the administrator and official recording agency for the Highlands Development Credit Program, and a buyer and seller of Highlands Development Credits. The Bank would be governed by a nine member Board of Directors who shall be appointed by Highlands Council Chairperson.

Ms. Swan provided a summary of the proposed resolution and explained the Highland Development Credit Bank as well as the creation and composition of the Board of Directors which would include representatives from the Council, the State TDR Bank, the Garden State Preservation Trust and four public members with specific areas of expertise..

Mr. Dillingham moved the motion and Mr. Cogger provided a second.

Mr. Vetrano asked how general public members will be selected. Chairman Weingart stated that he would ask Council members for recommendations and there would be a process for public recommendations as well. There will be a posting on the Council's website to solicit interest.

PUBLIC COMMENT:

ERIC SNYDER, Sussex County Planning Department – Mr. Snyder asked about where the TDR Program was and questioned where the funds are for this program. He also asked if there are areas that have been identified (in certainty) for credits and what capacity has been established. He explained that this is a major concern.

DEBRA POST – Ms. Post questioned where the funding is. She also wanted to know how many credits will be allocated for landowners. She quoted the approximate credits noted at the TDR meeting, and questioned what the ratios will be for the credits in regards to the loss of ability to build on properties within the Highlands. She mentioned that there doesn't seem to be enough credits available for the all of those who are losing property values or the ability to build on their properties. She also reiterated that the credits may be at a 75% discount to market which is unfair. Creating the TDR Bank doesn't meet requirements for setting up the TDR Program (as an active marketplace is not in place). She stated that the Council needs to identify sources for TDR credits and create balance for this TDR Program to be set properly.

JAMES TRIPP, Counsel for the Environmental Defense – He stated his support for this resolution, that there is still a lot of work to be done, but that this is a good step. He urged that the bank have the broadest powers possible under law. He mentioned that it may start at a municipal level rather than at a regional level and then grow over time. He explained that broad powers will help to make it work.

HELEN HEINRICH, New Jersey Farm Bureau – She stated that she is glad to see this first step even though there is much more work to be done. She asked if there was an intention for the bank to be set before the 17th or if it will wait until after adoption. The need for the ability to look at how this proposed TDR Program will work on properties, for instance, a preserved farm was also mentioned. She stated that she would like to set up a meeting with the Council and local farmers to help to answer questions and make things more clear. Lastly, she expressed her support for this resolution.

Chairman Weingart explained that, if approved, the Council would move quickly on the selection of board members but stated that full membership will probably not be in place by July 17th.

All members present voted to approve. The resolution was APPROVED.

REGIONAL MASTER PLAN DISCUSSION

Ms. Swan provided a PowerPoint presentation of the issues for consideration regarding the Regional Master Plan and began her presentation with a review of the Prime Ground Water Recharge.

a. Prime Ground Water Recharge

Ms. Swan first discussed the delineation of the Prime Ground Water Recharge Areas (PGWRA). She explained that the annual recharge was calculated using the NJGS model GSR-32 and that the total recharge within a subwatershed was computed assuming drought conditions. The land units that most efficiently recharge 40% of the total annual recharge were identified as PGWRA.

Ms. Swan presented a map which outlined the distribution of PGWRAs within the Highlands Region explaining that they account for 232,854 acres which is 27% of the Highlands Region's 859,358 acres. She also stated that 98% of PGWRAs are in the Protection Zone or the Environmentally Constrained Sub-Zones. Ms. Swan showed a table which listed the different zones and the corresponding amount of total acres, PGWRA acreage, percentage of zone within PGWRAs, and the total PGWRA percentage within that zone.

Since 98% of the PGWRAs are within the Protection Zone or Environmentally-Constrained Sub-zones, Council staff recommends to use a single policy and approach which is appropriate to those zones. This approach would utilize the management hierarchy: Avoid → Minimize → Mitigate. By focusing on limiting total recharge disruption this approach is more restrictive than impervious surface. The use of total site disturbance is not advised as this could prohibit disturbance that actually restores recharge potential in previously disturbed sites.

Within the PGWRA GPOs there were some proposed changes and updates. Development is prohibited in PGWRs unless the entire site is in such areas or if it is necessary to avoid Critical Habitat, Highlands Open Water Buffers, or steep slopes (Policy 2D4a). Within Objective 2D4e infrastructure extensions are prohibited except for clusters and waivers. The total recharge disruption will be limited to 15% of PGWRAs and will be placed wherever feasible on areas with the lowest relative ground water recharge rates as well as the least potential for aquifer recharge (based on site analyses – Obj. 2D4d). Low impact development techniques will be utilized to reduce the total recharge disruption, where feasible, within the 15% maximum (Obj. 2D4c). Mitigation equal to 125% of the pre-construction recharge volume within the disrupted portion of the PGWRAs will be required (Obj. 2D4b) and development of major potential pollutant sources (Obj. 2D3d, 2D4f) will be restricted while existing and future potential pollutant sources will be managed (Obj. 2D3g).

Ms. Swan then presented three slides with visuals to show examples of PGWRA Avoidance and Minimization/Mitigation. The first two maps were based on a hypothetical site which outlined where development and disturbance would be permitted the first one avoided the PGWRA entirely using the Avoidance approach, the second showed the application of the 15% disturbance and 125% mitigation within areas containing PGWRA, Critical Habitat, Highlands Open Water Buffers, and Steep Slopes and showed the results of the approach in real terms. . The next map that was presented showed an actual property and how development within this area would be limited by the

PGWRAs, Critical Habitat, Highlands Open Water Buffers, and Steep Slope areas. Lastly, Ms. Swan reviewed and summarized the PGWRA examples. She stated that they demonstrate the importance of first using the avoidance and minimization policies. They also demonstrated that typically there is not sufficient rainfall available to satisfy the 125% mitigation requirement and that the disrupted areas must be reduced in order to meet the 125% - this yields a lower mitigation volume. She explained how this mitigation requirement will be more protective of PRWRAs such that the full 15% disruption will not typically be realized. Typically, only low impact development (LID) techniques will be capable of achieving the 125% mitigation objective and where on-site mitigation is not feasible off-site mitigation will be required and criteria is set forth for that. Ms. Swan noted that there was a memo reviewing other procedures and ordinances in existence that used percent impervious cover allowed but that the staff research did not uncover a basis for the decisions under which these ordinances were adopted. Thus the staff tested the recommendation to see if it were protective and yet met the intent.

Mr. Schrier noted that this approach is very strict and effectively prohibits growth which he felt was appropriate. Ms. Letts asked what “disruption” means. Ms. Swan responded that it is more protective than just impervious surface, it is where the disrupted area would not allow for equal or superior recharge than the original state of the site. Mr. Hutzelmann explained that even a change in the natural vegetation could be included. Mr. Cogger asked about the differences if this was an agricultural property – Ms. Swan explained that that would be a previously disrupted property and the recharge would be calculated “as is”. Mr. Cogger asked for clarification on previously disrupted areas where the disruption will change. There was explanation of the ability to improve mitigation in other areas of the property, possibly where the agricultural uses were and that could be used to satisfy some of the 125% mitigation.. The differences between disruption and disturbance were outlined. Mr. Hutzelmann helped to explain how changes to properties will be considered and how the rules for disruption work. Ms. Swan explained that it is possible to improve the mitigation on the property. She also pointed out that agricultural activity is not typically found in PGWRAs.

Mr. Alstede asked about this applying to an agricultural property. Mr. Borden explained that the Council previously had considered an overarching policy regarding agricultural use and development and that development restrictions for these activities would not apply unless affirmative action is taken under the Right to Farm Act to address public health and safety issues. Chairman Weingart reiterated that it is unlikely for agriculture to be over a prime ground water recharge areas. Ms. Swan went back to the chart showing distribution of the Prime Ground Water Recharge Areas and showed that this would apply to an extremely small percentage of existing agricultural lands (since they are mainly in the Conservation Zone). Mr. Alstede stated that there is a possibility of issues for farmers regarding these rules. Mr. Borden replied that the Right to Farm Act does provide protection for farm activities unless it affects public health.

Mr. Alstede asked how soon the Council will be able to see the multiple overlays on a map. Ms. Swan explained that if you add all of the layers, approximately 57, that you can no longer see it clearly because there just is too much information. However, you are able to turn layers on and off, which will show you multiple layers. She indicated that she would be showing the Council a web based tool later in the meeting.

Ms. Pasquarelli asked about point #3 on the Summary of PGWRA slide and she asked for clarification Ms. Swan explained that the 125% mitigation requirement will, in many instances , be more protective than the 15% disruption (showing one of the examples she had presented). Mr.

Letts asked if the 125% represented all of the water that you are preventing from going into recharge area plus 25% more. She asked if there are ways to analyze this information. Ms. Swan explained that the staff has already done the analyses to this level and indicated some information and calculations on recharge provided to the Council.

b. Highlands Open Waters

Ms. Swan explained that this issue is coming back to the Council with the recommended changes as a result of the previous Council meeting. She noted that some of the changes are clarification language changes that were submitted by Mr. Dillingham.

Ms. Swan reviewed the Highlands Open Waters Stream Corridor Buffers and Plans. She noted that regarding the 300 foot buffer, Policy 1D4 was clarified for modification of buffer width for Category 2 streams in the Planning Area through a Stream Corridor Protection/Restoration Plan. This plan may be developed for stream reaches or subwatersheds. In Objective 1D4i Part 1, the meaning of disturbance was clarified to be where the disturbance was removed or substantially impaired natural vegetation and has significantly impaired functional values. The following revisions were made to this section: in Objective 1D4i, Part 4 was revised to focus on the potential for modification of buffers on C2 waters in the Planning Area, only where disturbed buffer exists, and only through a Council-approved Stream Corridor Protection/Restoration Plan; this section was also revised regarding the extent to which a modification to no less than a 150 foot buffer for undisturbed lands to the extent allowed under State or local regulations.

Mr. Alstede asked if there is a definition of natural vegetation. Ms. Ross clarified the definition and that a definition could be added to the glossary for clarification. Mr. Dillingham noted that his intent with the clarifications was to focus on restoration where corridors have been impaired. Also, in redevelopment areas to try to allow some reduction of the buffer as long as the value is not lost and alternatives do not exist. He stated his disagreement with the reduction of the buffers that the staff had recommended. He noted that reducing the buffer should not be listed under restoration and stated his concerns about implementing and evaluating this. He stated that #4 under 1D4i is still not acceptable to him. Ms. Ross explained that the intent of this was to give the towns a watershed based approach and to be more protective. She stated possible examples where reducing the buffer with strong restoration and mitigation would actually be more protective than setting a higher buffer. She noted that a scientific approach would be utilized to identify appropriate areas without compromising protection.

Ms. Pasquarelli asked about the science based approach and if there would be reliance on the developers' or town's staff and consultants. Ms. Ross explained that it would be in meeting with staff and receiving their consultation. Ms. Pasquarelli asked about how many towns have a stricter buffer than the RMP and if this will make them relax those buffers (which could be difficult to defend). Mr. Borden explained that the RMP supports and encourages the stricter standards, so if they are currently in place, the stricter would be utilized.

Ms. Letts brought up the previous discussion of this being town based or application/site based. She clarified that the town's professionals would be handling this, not the builder's consultants. Chairman Weingart and Ms. Swan explained that this is not site specific but would be through municipal Plan Conformance. Ms. Letts noted that this will require larger amounts of grant funding.

Mr. Dillingham explained that restoration is a complex science and questioned if it is going to be possible to achieve the goals the staff is hoping for. He stated that allowing for a lesser buffer could be problematic. Ms. Pasquarelli also stated that the ambiguity of there being a range of buffers instead of a set standard, and how this could cause future issues. Ms. Letts stated that restoration is important and that a little flexibility will help restoration to happen. Ms. Pasquarelli asked what the reduction really accomplishes and how it encourages a town to do restoration when they could do it under current conditions with the stricter buffer. Ms. Letts gave some possible examples of how the lesser buffer could be an incentive for builder's to do restoration. Mr. Peterson explained that this could provide an economic advantage to owners who are doing restoration and that these practices are already in place in many areas by the shore. Chairman Weingart noted that maybe an example of how this could be used would help clarify it for the Council. He reviewed his understanding of this policy.

c. Transfer of Development Rights Program

Ms. Swan explained that the staff has reviewed this in response to comments and has decided to revise the mapping to meet the Highlands Act mandate by focusing entirely on the Existing Community Zone within the Planning Area.

Ms. Swan then presented the Identification of Voluntary Receiving Zones in the TDR Program. She explained that the Receiving Zones under the Highlands Act are entirely voluntary. She noted that the Act requires the identification of potential voluntary Receiving Zones in the Planning Area and sets a 4% (of the Planning Area) as a goal. The regional Receiving Zone assessment is preliminary and will require local analysis, including a review of site specific environmental restraints. Ms. Swan then reviewed the revised Receiving Zone Assessment which included: focus on the Existing Community Zone within the Planning Area and excludes all constrained zones, inclusion of developed and undeveloped lands both with and without infrastructure, exclusion of preserved lands, right of ways, cemeteries, and lands developed with single family homes as of 2002. In summary, the identification included approximately 12,000 acres in the Planning Area.

The two types of opportunities which are possible within the HDC Receiving Zone Assessment included Greenfield Opportunities and Redevelopment or Infill Opportunities. She explained the requirements for these two opportunities and noted that the total Greenfield Opportunities totaled 980 acres (280 with wastewater capacity and water availability) and the total Redevelopment or Infill opportunities totaled 11,000 acres (existing areas served). Ms. Swan presented a slide with a map outlining potential areas for voluntary HDC Receiving Zones in the Existing Community Zone. Ms. Swan explained this is slightly less than the 4% (which was a goal) and doesn't mean that there isn't potential elsewhere. Municipalities can examine other areas if they can prove that they are protective of resources consistent with the RMP and that there is infrastructure present to support development.

Ms. Pasquarelli asked about the 280 acres that have sufficient remaining wastewater and water capacities and how this was identified. She also asked about how water that is allocated but not currently in use was taken into account – she was concerned about how this was accounted for and that the available resources are incorporating allocations not currently in use. Mr. LeJava explained that these were accounted for and this information was used in the analysis. Ms. Letts discussed how capacities are outlined and mapped, and expressed concerns about exceeding actual available capacity. Ms. Swan explained that the staff has already followed up and verified this information for the analysis that was done. Ms. Pasquarelli explained that there are instances where the zoning and

available capacities do not mesh and can cause issues. Chairman Weingart clarified that the staff is simply identifying areas that are opportunities for TDR.

Ms. Swan explained that this is preliminary, conservative map of potential sites. There was discussion of the feasibility analyses (discussed in the program) that municipalities will need to complete for a receiving area. Ms. Swan then presented a real world example of potential , as per Mr. Dillingham's request, which showed the Livingston Town center. She noted how the redevelopment site utilized smart growth principles. Ms. Swan then reviewed the HDC Determination Tool within the TDR Program and how the interactive map can be used to give a landowner preliminary information on numbers of credits for sending areas in the preservation area.. She explained that the residential allocation method accounts for 3 important questions: Where is the property located? How Many acres is the property? Where is the applicable zoning? The calculation for the HDC allocation = (Net Yield) x (Zoning Factor) x (Location Factor). Ms. Swan defined all of the factors as well as the possible Bonus Credits which are possible if the parcel is located in either a moderate or high value conservation or agricultural priority area. She then presented a table which gave examples of parcels within different municipalities and how the Allocation of HDCs would be calculated.

Mr. Cogger stated that regarding the Chester numbers within the table, that the landowners would be better off going through the farm preservation program. Ms. Swan explained that this is based on the initial credit value that has been estimated – eventually the market will take over (as was seen in the Pinelands) and the prices will be market driven. Mr. Cogger noted that lands that owners who have limited options due to wetlands, will be able to consider this program as they might not be eligible for farm preservation due to the environmental constraints. Mr. Alstede asked about the difference in values between Chester and Tewksbury. Mr. Cogger pointed out the difference in lot size. Mr. LeJava explained the process for developing the values of this table and how Mod 4 data tax assessment data was utilized. Lot size was examined and a tiering system was established. He explained the Tiers that were established and that all of this information is available online (under the May TDR Committee meeting). He explained how equalized assessed values were used and how zoning and location value were involved. He also explained how the results were then tested by the consultants using actual sales data.

d. Water Quality Management Plan Amendment Consistency Determination

Ms. Swan continued her presentation with a review of the Water Quality Management Plan Consistency Determinations. She noted that staff had assessed the requirements of NJDEP's revised WQMP rules at N.J.A.C 7:15 (WQMP Rules). Counties and municipalities must be aware of all applicable standards that will be required by NJDEP, as they must complete their Wastewater Management Plans (WMP) within 9 months of the effective date of the rules. She explained that the Council will provide to NJDEP the RMP standards applicable to the WQMP regulations for the purposes for rendering a consistency determination as required by the NJDEP rules at N.J.A.C. 7:38 (Highlands Rules) and any additional RMP standards that the Council feels are relevant to the WQMP process. The Council will prepare consistency determinations as required by the Highlands Rules and the NJDEP will provide guidance to counties and municipalities on the standards required in order to prepare their WMPs. She pointed out the meeting packet handout which included tables of the NJDEP WQMP Rules, the Final Draft RMP Standards applied to the WQMP reviews and the Future Consistency Review Scenarios and highlighted the important provisions of the revised WQMP Rules and the RMP standards that may be considered as part of an RMP consistency review of a WMP.

She explained how the staff and Council will work with NJDEP to ensure that counties and municipalities are informed at the beginning of the planning process of the applicable standards.. This will also make the review process easier. Towns which choose to conform, will be going through the WMP process at the same time as they are working with staff on Plan Conformance. In order to facilitate this, the WMP requirements will be the first requirements for conformance so that both NJDEP and the Highlands can keep the process moving in a manner which facilitates applicants. It was stated that this should add clarity regarding what the counties and municipalities need to do in regards to standards.

Chairman Weingart noted that this is in response to the new NJDEP rules and the Council's need to comment on WMPs. He explained the need to comment on these standards and clarified the issue regarding nitrate standards. He clarified that the Council is stating that the Council would require these standards if the municipality wanted to conform, but the NJDEP would be the ones mandating the nitrate level within the WMP for non conforming municipalities.. Ms. Swan explained that the NJDEP makes the final decision as to whether a town's WMP is approved. The Council would be delivering all of the requirements, basically all of the standards within the plan, to the NJDEP which gives the guidance to the counties and the towns.

Mr. Vetrano clarified that the Council has rejected the staff's original recommendation and that this new recommendation in a sense sets the question back to the NJ DEP. He expressed that this issue will effect whether municipalities embrace the RMP or not. And that if the Council doesn't look at it in the broader sense which will allow them to embrace it, the Council is just spinning their wheels. He expressed that there are a number of people unhappy with this and that the Council needs to listen to them. He questioned why the Council needs to have standards that are stricter than the NJDEP rules. Chairman Weingart reiterated that the new NJDEP rules have created an issue where the Council must comment.

Ms. Carluccio responded that the Council has to set stricter standards than the NJDEP because this is what the Act is all about in order to protect the water resources. She noted that the NJDEP within their new standards also left room for those who have found that a higher standard would benefit the people of New Jersey and their resources. She stated that it is the Council's responsibility to use the higher standard since it has been shown necessary for proper protection. It is the Council's charge to protect the water resources – it would be irresponsible for the Council not to use the higher nitrate standards that the science has shown appropriate. She explained that a lot of the NJDEP regulations can be made stricter on a municipality level for better protection. The Council's charge has not changed with these WMP rules. The Council has listened to the comments both supporting and not supporting these standards, but has to do what is best for the needed protection of the water resources. The bottom line is that the Council has to plan and protect – it cannot lose sight of that because of fears of what the decision of applying these standards might or might not do. A lot of what towns are concerned about is really a fear about how it will affect their WMP process and that is yet to be seen. Many municipalities already have stricter standards in place.

Mr. Vetrano stated that he disagrees and that the Council is protecting resources sufficiently within the Preservation Area and that the Planning Area is set for planning and allowing some movement within the area. Chairman Weingart stated that he believes that the Council hasn't had an issue with

the nitrate standards and the Planning Area municipalities that choose to comply. The issues have been raised regarding the Council's need to respond to NJDEP and what effects that will have.

Ms. Carluccio explained that since the Council hasn't had an issue with these standards, because it is based on science and research, that it should stand by those standards. It should not revisit that because of political whiplash. It would be a mistake to be revisiting the fundamentals of the plan. Mr. Schrier noted the reference to politics – and how he believes that this isn't appropriate. He explained the development of the two areas, Preservation and Planning and that scientific research was utilized to set these zones. He stated that the boundaries were drawn based on that science. There are two separate zones. He stated that by replying to the NJDEP that if a municipality wants to conform, it will need to meet certain standards. This is just sending down information. He stressed his support of this, but if the Council was stating what standard will be set within the planning area this is inappropriate and the wrong message to send. It should be clear to the NJDEP the difference between the mandatory Preservation Area and that conformance in the Planning Area is voluntary.

Mr. Dillingham stated that he believes that the Council has set what the appropriate standard is and have received clarification on what the Council's authority is. Under the Water Quality Planning Act, the NJDEP needs to seek consistency with the RMP, which is in their authority. He stated that there needs to be harmonization and consistency between the two zones even though they are distinctly different zones. The Council has discussed working towards having the NJDEP utilize the RMP. He doesn't think this should be simply passing on information to the NJDEP.

Ms. Letts question that if the Council's standard is based on science, what is the basis for NJDEP's standard. There was clarification on the fact that the NJDEP standard is statewide and works well in some areas. However, they also accept specific data that supports stricter standards in some areas. Ms. Carluccio reiterated that the supporting information for these standards is based on science and data gathered, and not on politics. Ms. Pasquarelli clarified that the Council doesn't need to give the NJDEP the Preservation Area standards as they developed them for their own standards. She stated that she supports giving the information up front asked if this is about eliminating the consistency review at the end. Ms. Swan stated no, it doesn't affect the consistency review. Mr. Alstede returned to Mr. Vetrano's point, and stated that the legislature was very clear in that there are two zones with different restrictions. He read from the Act. He noted that there should be two different approaches (as set down from the Legislature) and expressed his concerns that municipalities will reject this idea. Public representatives are present to speak up against this. The taxpayer will be the ones who lose. Mr. Vetrano returned to the idea that all of the work done by staff to build trust will be undone. Mr. Alstede read from the Act again and stated that the focus was all on the Preservation Area.

Ms. Carluccio stated that the Planning Area is hydrologically connected and that there is a large responsibility attached to this – to all of the constituents who use Highlands area water. She stated that water throughout both zones go into the water resources for 50% of New Jersey. The Council cannot use excuses to reduce the importance of the Planning Area. The Legislature pointed out the entire Highlands area as in need of protection. She stated that having a weaker standard would be turning your back on the planning area, as if it doesn't require protection. Mr. Schrier stated that opting in leaves an option. Taking away that option from the Planning Area betrays the intent of the Act, and betraying the promises that were made to the municipalities. Not leaving that option for municipalities and pushing them into this standard will push them away. The Council wants the

municipalities to opt in so that the plan can be successful. He stated that he doesn't believe that the NJDEP is degrading the water in the Planning Area with their standard. There are some who would believe that only the strictest standards would sufficiently protect the water, and this was not the intent.

Ms. Calabrese asked why the higher standard is so onerous for the people in the Planning Area. Ms. Swan explained that the thresholds within the different zones. She explained that essentially, it will reduce the amount of acres allowed per unit. Mr. Schrier stated that the question really is that the Council would be telling them that they have to accept the standard whether they like it or not. Chairman Weingart reviewed how the Council has gotten to this point. He explained that the NJDEP has asked what would be required for consistency and conformance – he is uncomfortable with this, but we are in a position that we have to give an appropriate response. The Council needs to come up with how they want answer what would be needed to be consistent with the Highlands Plan. Mr. Dillingham stated that the controversy is what this standard will do to development. He believes that those against the higher standard are trying to protect a higher development yield. He stated that he believes that if this standard is so onerous to a municipality, then they would not be looking to conform anyway – it will not affect their decision one way or another.

There was discussion about the Council's need to protect the resources with this standard and the Council's ability to use its power to enforce the stricter standard for higher protection. Ms. Carluccio reviewed that the Council followed the science to develop the necessary standards. She stated that the Council must do what the science has shown to protect the resources. The protests that are being received, should not make the Council falter from following the science and the research. She said that the Council should tell the NJDEP what the RMP standards are and not bend to the pressures that are being applied – this is the honest thing to do. She clarified that the Council is not making the Planning Area municipalities do this – that they are simply stating that this has been a scientifically proven standard and are recommending it to NJDEP and they are the one who make the final decisions.

Mr. Vetrano noted that by using the stricter standard will make the area too difficult for people to live in. There needs to be a discussion about the economic impact of these stringent rules in the Planning Area. Mr. Cogger questioned what exactly the recommendation will be. Chairman Weingart explained that a new staff recommendation is before the Council regarding the response to the NJDEP. He stated that the Council would be providing the information to the NJDEP regarding the standards that the Council would be requiring if municipalities want to conform. The NJDEP would be most likely utilize the Council's science and recommendation to set a mandate. Mr. Cogger stated that the Council should be using the science.

Chairman Weingart asked whether the Council would like a straw vote on this recommendation or would the Council rather hear public comment and then return to the issue. Ms. Pasquarelli noted that the Council doesn't know that the NJDEP will set the recommendation as a standard. She clarified that the Highlands Act is why the Council is using the science which has lead to the higher standard. The Highlands Act is why the Council is not simply using the NJDEP standard. Nothing has changed. The Council should recommend that the NJDEP use the Council's standard. She clarified that the Preservation Area was set for areas that were in need extensive and immediate protection. The Planning Area, by her understanding, is not an "anything goes" area – or it wouldn't exist if it was. It is an area that needs protection within certain sections to protect the resources, but not as extensive as in the Preservation Area. She explained that with the Planning

area there are different sections – areas for encouraging development and some for higher protection to protect the water supply and some needing less protection. There are different rules for these different areas. She stated that the Council used different methodology than the NJDEP in creating these standards. She clarified that the Council is providing a technical review to NJDEP - this is not about mandating and is not about opting in. These are misconceptions. She stated that the Council is not breaking promises – they are just doing what they have been doing. She added that the word require should be removed from the table document regarding smart growth development patterns in the Region.

To answer Ms. Calabrese’s question – that municipalities believe that their plans for development will be inhibited. She believes many of these ideas and opinions have been muddled. She stated that she is all for voluntary conformance and voluntary TDR – but there are many misconceptions present.

It was decided that this issue will be returned to at the next meeting, after public comments have been heard.

e. Cash Flow Timetable (Land Acquisition Costs)

Ms. Swan continued her presentation with a review of the land acquisition costs. The Highlands Act requires an estimate of the 5 year and 10 year acquisition costs to preserve land. She noted that currently preserved lands in the Highlands Region equal 266,522 acres including 237,994 acres of preserved open space and 28,528 acres of preserved farmland. The Land Acquisition Costs are based upon actual land acquisition costs from Green Acres (fee simple) and SADC’s Farmland Preservation program (easement purchase) for lands with confidential inventory. The Agricultural Priority List includes 70,197 acres and the Conservation Priority list includes 92,360 acres – so the total is 162,557 acres.

Within the land acquisition costs analysis, it was found that: within the Agricultural Priority List the cost to preserve 5 years is estimated at \$544 million, 10 year priorities an additional cost of \$109 million, so the total is \$653 million. For the Conservation Priority List – the cost to preserve 5 years is estimated at \$599 million, 10 year priorities an additional cost of \$79 million, totaling \$678 million. Therefore, the total cost of preserving the entire agriculture and conservation priority lists is estimated at approximately \$1.3 billion.

She then reviewed the total Garden State Preservation Trust (GSPT) from 2000 through 2009 (2007 referendum). The Green Acres Program accounts for approximately an average of \$132 million (or 59%) annually and there is an estimated 9% annual funding allocation from Green Acres to Highlands open space preservation. The SADC Program account for approximately an average of \$85 million (or 38%) annually and there is an estimate 21% annual funding allocation to Highlands farmland preservation. The GSPT figures would need to be consistent over the next 10 years for Green Acres (past spending is only 76% of the projected need) and enhanced considerably for SADC’s Farmland Preservation Program (past spending is only 42% of projected need) to preserve properties on both of the confidential lists. This funding is critical to keep momentum going to preserve the Highlands natural areas and agricultural lands. She noted that the staff used actual sales information from Green Acres and the SADC to arrive at these conclusions.

Mr. Alstede asked about how the tax stabilization, or relief for economic lost, has been accounted for. Mr. Borden explained that there are two separate issues and that this presentation is about one section of the cash flow timetable – acquisition costs. He explained that there is a cash flow

timetable which addresses these other issues. There is existing funding for tax stabilization, which will be made available after adoption. There is an existing balance of the Highlands Tax Stabilization Fund for what the Legislature has appropriated and anticipated allocations.

Ms. Letts asked for clarification that these are based on conservation easements. Ms. Swan explained that this is based on fee simple for the open space and easements for farmland preservation. Mr. Alstede asked if the loss of ratables was calculated. Ms. Swan replied that this will have to be done on a case by case basis after implementation so that it is accurately calculated. Mr. Alstede asked if the Council needs to analyze implications and costs for the municipalities. Mr. Borden clarified that the Council is not charged or required to analyze actual budget implications for all of the 88 municipalities. There is a tracking mechanism established to look at costs that occur during implementation. The tax implications cannot be accurately estimated as land acquisition is a voluntary, willing seller, issue. He also explained that the Act does have procedure for phasing out tax stabilization over time and that is captured in the cash flow timetable – if additional funds become necessary, it can be revisited.

f. Transportation Program

Ms. Swan then continued with presenting on the Transportation Safety and Mobility Program. The Voorhees Transportation Center (VTC) performed an evaluation of Induced Growth Potential in the Highlands Region. They also performed an assessment of proposed projects and on-going studies relevant to the Highlands Region for consideration by the Council in the RMP. They found that: additional highway capacity attracts traffic and encourages growth of new activities, whereas transit has little impact on accessibility and is highly localized; impacts of rail transit are highly localized and mainly occur in downtown areas and depend on zoning, parking and traffic policies; for any significant growth inducing impacts to materialize from rail expansion, supportive land use policies would have to be in place. The Council staff recommends that the RMP project recognition include only transit (rail, bus, multi-modal) projects or studies in accordance with the goals of the Highlands Act and RMP policies.

Ms. Swan then reviewed the relevant on-going transit project and studies. The Access and Mobility 2030 (the most recent Regional Transportation Plan (RTP) of the North Jersey Transportation and Planning Authority (NJTPA)) was evaluated for relevant ongoing projects and studies. Interviews were conducted, public comments were reviewed and county transportation/transit plans were considered. Presently 15 transit studies are identified in the RTP and 7 of which may be considered relevant to the Highlands Region with 4 being recognized as viable projects or studies that are on-going and support the RMP policies and Implementation Programs. She described the two currently funded projects, Access to the Regions Core (ARC) and Montclair-Boonton Line rail extension to Andover, which support transit. She specified that any extension beyond Andover was not included in the recommendation. Ms. Swan then reviewed the two ongoing studies, the Northwest NJ Bus Study (which has 80% of the study area in the Highlands Region) and the Raritan Valley Line from High Bridge to Phillipsburg Study (which is anticipated to be completed in early 2009), both of which support transit.

g. Update on Web-based tools

Ms. Swan then gave an overview of the updates on the Web-based tools. She described the changes to the Property Search, Consistency Application, and the RMP Updates applications. The slides she presented walked the viewers through the process of using these applications using examples.

Chairman Weingart reiterated the Council's meeting schedule and recommended that the Council members be available for many hours on those days as he anticipates long meetings.

PUBLIC COMMENTS:

MIKE FRANCIS, Councilman with Hopatcong Borough: Regarding Plan Conformance and the RMP, Mr. Francis stated that it is a slippery slope regarding information with the NJDEP. He stated that regarding the nitrate standard and the recommendation with NJDEP – he believes that it is violating the trust of the borough. He stated that the legislation is clear and that there is a specific line. Crossing the line is wrong. He stated that the concern is about home rule, and that they are concerned about conforming to something that they can trust will not change. The local people are interested and concerned about this issue. He expressed the ideas and alternatives that could be put in place instead of the set standard. He noted that the NJDEP respects the Council, and will likely accept and implement the standard. There needs to be clear definition between the Preservation Area and the Planning Area. He stated that if the Council wants to focus more on the Planning Area, it should change the legislation.

MARYANNE SMITH, Hardyston Township; as well as **TOM COLLINS, Hardyston Township, Sparta Township, and Byram Township** – She expressed that Hardyston has been active in this process from the start and that they are disappointed. They had trust that this was a mutual effort to the benefit of all, and that trust is being broken. Mr. Collins then stated there needs to be a statement that opting in is truly optional. He noted that all three municipalities have been supportive and active within the creation of the RMP. A large amount of information has been provided for corrections in mapping. The townships would have liked these changes to have been done before adoption. If the nitrate standard is adopted and areas for potential growth are not identified, sewer service will not be able to be utilized in the Planning Area. He discussed the need for sewer extensions that have been based on smart growth plans and the fact that this mandate will not allow the needed sewers for compliance with the COAH and Smart Growth rules. These nitrate dilution models devastates the village center sites. He stated that the Council needs to revisit the mapping so that building cannot be going into inappropriate areas. He asked for clear language that this mandate is only recommended and that it is only required if you are opting in. There needs to be harmony not just with the NJDEP, but also with municipal and county master plans – this is appropriate planning. Going forward with this will create problems. Lastly, Ms. Smith noted that the studies were created looking at 2002 data and that the township gave newer data for the Council to be utilizing. Not using this information, will have huge effects on these townships. She expressed that the mandate is being enforced differently from what is set in the Act.

JAMES TRIPP, Environmental Defense Fund (comments submitted) – Regarding the TDR Program, he stated that a TDR Program envisions a landscape where much land is preserved and the development that does occur happens in a larger densities. It is a program that can reach many of the resource goals and can cut down on nitrite levels in the water. He stated that the other aspect of the TDR Program is generating revenue to finance this program. He mentioned the costs for preserving important areas. A TDR Program can accomplish many of these things – by higher density within these areas. He reviewed the presentation that was handed in to the Council. He stated that it is important to look at the economic aspect of the TDR Program regarding the financing of the program which is important for protecting the resources.

ERIC SNYDER, Sussex County Planning Department - He stated again the lack of support for setting a mandate in the Planning Area. He expressed that there is a line in the legislation. He stated that the authority is restricted in the legislation and that the legislation needs to be changed if the authority is going to change. He mentioned that rejection of the NJDEP standard is not fully understood – he questioned the benefits of the greater nitrate standard. He wanted to know what is going to be gained by the higher nitrate standard. He noted that there are no performance standards. He stated that this is regulation, not planning.

MICHAEL GAUS (previous chairman of Sussex County Economic Development Partnership) – He explained the role of the Sussex EDP. He noted that the concept set forth will destroy home rule. With these rules in place, the Council will become a super zoning board. He explained that the legislation states that there are different rules for the two different zones. The science of the NJDEP and Council is different. The Council needs to regain the trust of the municipalities. Following this course will lead to failure.

DEBORAH POST – She expressed that some of the Council members are not concerned with the people. She explained the conflicts of interest. She stated that the area will become an area only for the rich and the wood turtle. She cited a court case regarding eminent domain in Piscataway. The Council’s pricing is not appropriate or fair. The pricing will burn the landowners and is unfair. Tax assessment data shouldn’t be used to develop fair market value. She spoke about the chart with the pricing within Chester – and how the numbers seem inaccurate. She disagreed that the market fluctuations will affect the values as needed. She asked about the secret lists and how it is determined who will be on them.

JULIA SOMERS, NJ Highlands Coalition – In regards to Prime Ground Water recharge, she stated that is was much improved. She stated that the reduction of the buffers should be based more on restoration (1d4i – should provide the functional assessment equivalent of restoration). In regards to WQMP, some comments were made that were untrue. She mentioned that she did see some of the letters that the Council has received, and that there is a willful ignorance regarding the NJDEP rules. She noted that the NJDEP states that the NJDEP will review both zones and shall provide consistency with the Council. It also explains what the RMP is and what it means. She read from the NJDEP correspondence. At this time, the Council doesn’t know what the NJDEP will do with the Council’s recommendation. The NJDEP has recognized that standards other than their set nitrate standard, can be used with support. The Council has done research to show that the Council’s standard is necessary in the Conservation and Protection Zone. She noted that towns saved tax money when they preserve land. She also requested that: minimum practical use, public health and safety, growth areas, no viable alternative, and feasibility be added to the glossary.

Ms. Pasquarelli asked that substantially consistent also be added.

DAVID PEIFER, ANJEC (comments submitted) – About the nitrate standards in WQMPs, he stated that the Council is required to provide consistency determinations on WQMPs within both areas. He stated that this has been being done. The consistency reviews have to allow the NJDEP to discharge their regulatory authorities. They also have to be done in a way where the relationship between the RMP and the proposal can be understood. He mentioned that Ms. Somers covered what the RMP consists of, one of which are the standards that are established. He noted that detailed scientific work has been done to support these standards. If this nitrate standard is not going to be utilized, the RMP should be changed and the research would have to be done over – he

doesn't suggest that. He mentioned that within the NJDEP rule, they were aware of areas where their nitrate standards were not sufficient. He read from the NJDEP rule regarding the ability to use a more stringent standard. Mr. Peifer reiterated that the consistency reviews are mandated and need to be based on the Council's science, and should be committed to the NJDEP consistent with the RMP.

ROSS KUSHNER, Pequannock River Coalition - He noted that he lives in the Highlands Region. The people concerned with the nitrate standards are the large builders. He stated that he was appalled that the public servants haven't brought up the effect on the local people. The public officials are not effectively defending their entire public.

HELEN HEINRICH, New Jersey Farm Bureau (comments submitted) – She stated that she will make a few points and may bring back the maps at a future meeting. She showed enlarged maps of the Highlands Region and noted that the only areas not affected by one of these features/restrictions, are only small spots. The Council needs to review the mapping for counties and municipalities as a whole when considering the RMP. She stated concerns about farming in the future. She asked how are the municipalities going to plan for all of these little areas and how is a farmer going to plan for his property, when it is in different zones. The updating will be a difficult job.

SCOTT OLSEN, Byram Township Council member – Mr. Olsen stated that he is speaking on his own behalf, not on behalf of the township. He states that the Council gained his respect – particularly with removing the Preservation Areas from the TDR Program. He stated that many of the decisions that the Council is making will make his job more difficult. As long as the Council's decisions are based on good science, he will support them. He would rather change zoning, than have to explain why the planning didn't work properly, or how the water was effected. He stated his respect for all of the points of the Council members, even when their positions differ from his own.

WILMA FREY, New Jersey Conservation Foundation – Ms. Frey stated support regarding the Prime Ground Water Recharge Areas as it is improved – although she questions why the choice to use 15%. She discussed the need for a distinction between developed and undeveloped areas - disturbance and impervious cover. She stated that reducing protections for Category 2 streams is far too broad – it is not the correct way to go. With implementing buffer plans, she expressed her concerns as determining functional value is difficult. The whole thing should focus more on restoration than on buffer reduction. Regarding the WQMP determination, she wanted to clarify that they came from the Act's mandate to preserve the water. The nitrate standard is used as a measure of water purity/quality.

SENATOR OROHO (24th district) – Senator Oroho stated that he is an elected official and was concerned with some of the public comments. He stated that the intent of the 120 legislators is important, not irrelevant. There were a number of towns present – these towns signed a letter of support regarding the legislation behind the Act. They understood the intent and the rules. He doubts that they would have supported this back door attempt to get everything into the Preservation Area. He supported Mr. Schrier's comments and position. He noted over reaching regulations going beyond the legislation, is a problem in New Jersey. The intent of this regulation was to have two clearly distinct areas. He read from a letter (August 2006) from Chairman Weingart to his predecessor, Senator Littell. He read sections from the Act pointing out the voluntary nature of municipalities in the Planning Area in regards to conformance. He also read from the regulations

of the NJDEP stating again the voluntary nature of the municipalities in opting into Plan Conformance. He asked that the Council think about the intent of the legislation as they make their decision. He asked that the Council think about the municipalities trying to comply with the Highlands Act and COAH and the difficulties in doing so. Again, he asked for the Council to consider the intent of the legislation and what the municipalities expected when they supported that legislation. Over reaching the legislation – how much further are we from dictatorial type governments that nationalize people’s property rights - and that is wrong.

Chairman Weingart asked for motion to adjourn which was moved, seconded and approved by all Council members.

Vote on the Approval of these Minutes

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</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

ENVIRONMENTAL DEFENSE FUND

RECEIVING ZONE SUPPLY

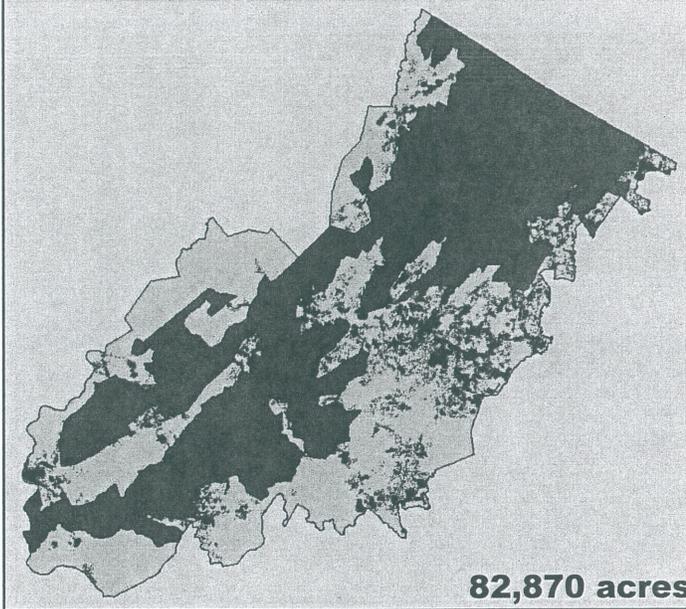
- ▶ WHAT RECEIVING ZONE ACREAGE IS AVAILABLE TODAY WITHIN THE HIGHLANDS REGION TO SUPPORT A TDR PROGRAM?
- ▶ HOW MANY BONUS TDR RESIDENTIAL UNITS COULD THAT ACREAGE REALISTICALLY SUPPORT?
- ▶ HOW MUCH REVENUE COULD BE GENERATED FROM THOSE BONUS TDR RESIDENTIAL UNITS?

ENVIRONMENTAL DEFENSE FUND

RECEIVING ZONE SUPPLY

- ▶ WHAT ACREAGE IS AVAILABLE TODAY?

Council's first-level analysis

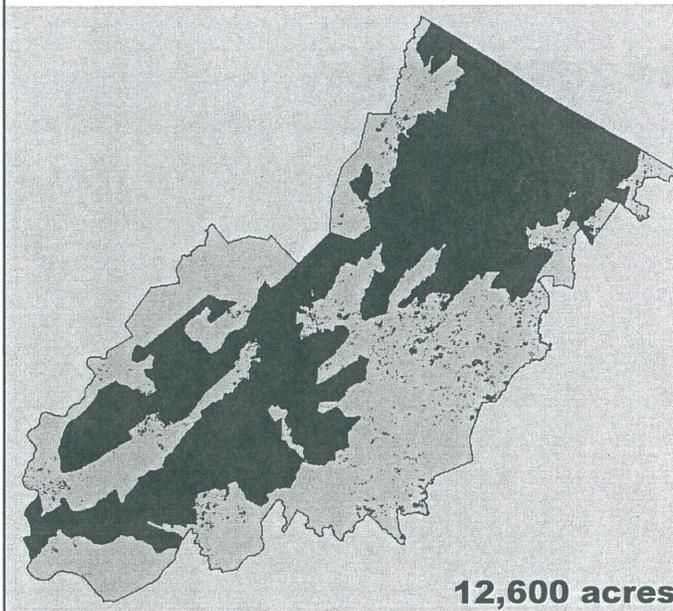


INCLUDES ONLY:

Previously developed and vacant parcels within existing community zone; AND

Previously developed or vacant Parcels located outside ECZ but within a water supply or wastewater Existing Area Served.

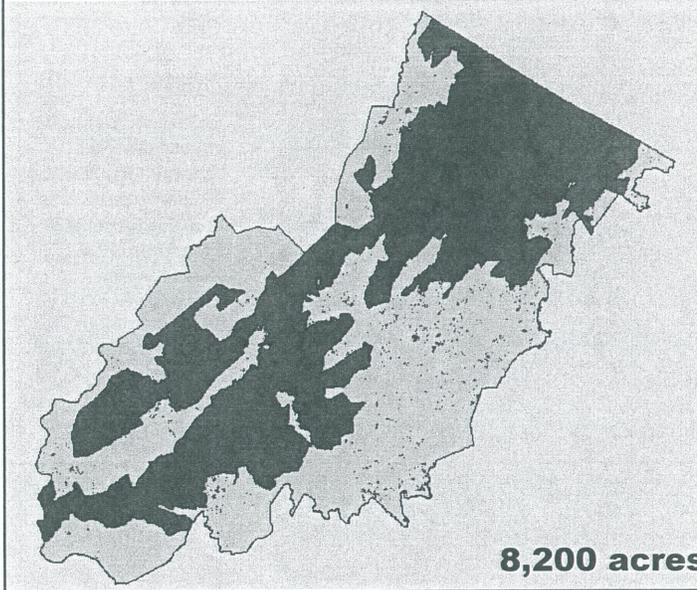
What if we exclude previously developed parcels?



INCLUDES ONLY:

Vacant parcels (Class 1 and 3B)

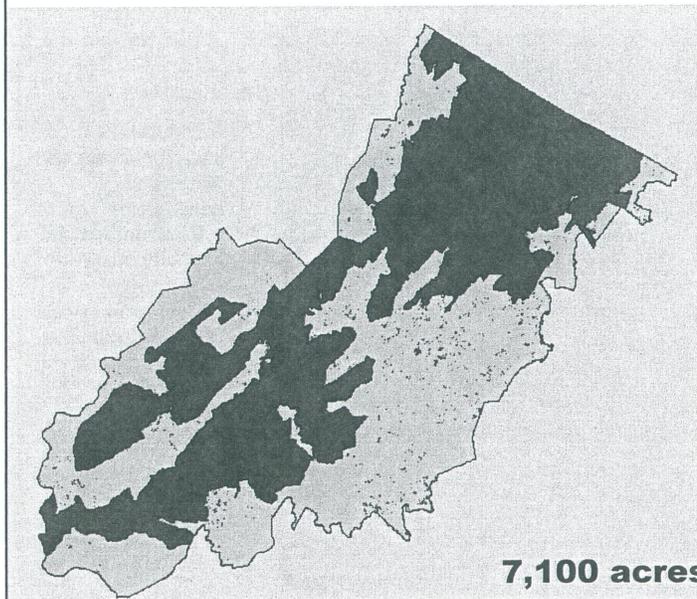
What if we also exclude non residential zoned parcels?



INCLUDES ONLY:
Residential zoned
vacant parcels

8,200 acres

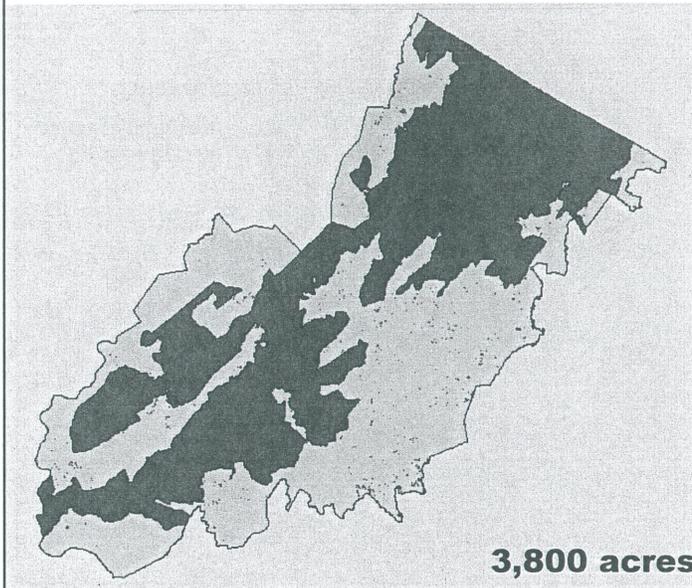
What if we also exclude land within the Preservation Area?



INCLUDES ONLY:
Residential zoned
vacant parcels
located outside
the Preservation
Area

7,100 acres

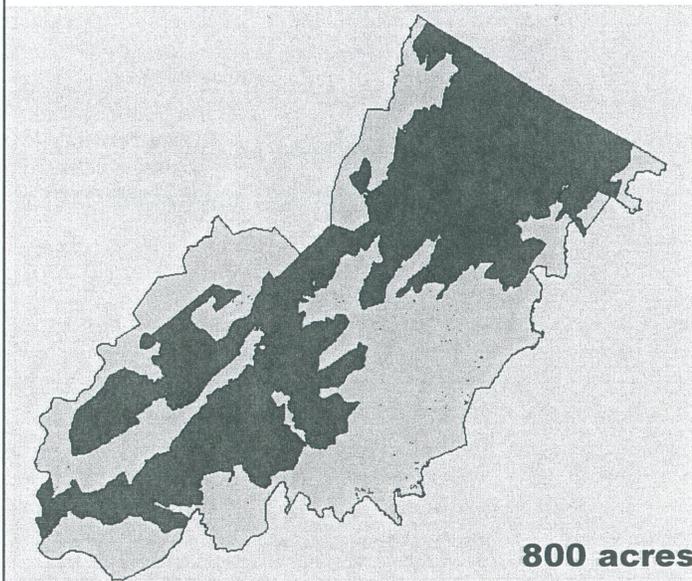
What if we also exclude environmental constrained?



INCLUDES ONLY:

Residential zoned vacant parcels located outside the Preservation Area and the Council's Environmental Constrained Subzones

What if we also exclude parcels that lack both infrastructure and capacity?



INCLUDES ONLY:

Residential zoned vacant parcels with water and wastewater infrastructure and capacity, located outside the Preservation Area and the Council's Environmental Constrained Subzones

ENVIRONMENTAL DEFENSE FUND

SUMMARY

PROCESS	ACRES
COUNCIL'S FIRST LEVEL ANALYSIS	82,870
VACANT PARCELS	12,600
RESIDENTIAL VACANT	8,200
OUTSIDE PRESERVATION AREA	7,100 SCENARIO I
OUTSIDE ENV CONSTRAINED ZONES	3,900 SCENARIO II
WITH INFRASTRUCTURE + CAPACITY	800 SCENARIO III

ENVIRONMENTAL DEFENSE FUND

RECEIVING ZONE SUPPLY

- ▶ HOW MANY BONUS RESIDENTIAL UNITS COULD SCENARIO I (7,100 acres), SCENARIO II (3,900 acres) or SCENARIO III (800 acres) REALISTICALLY SUPPORT?

ENVIRONMENTAL DEFENSE FUND

RECEIVING ZONE SUPPLY

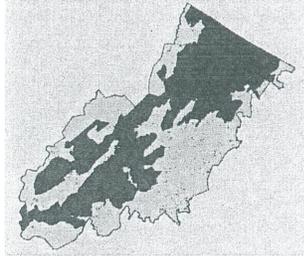
- ▶ HOW MANY BONUS RESIDENTIAL UNITS COULD SCENARIO I (7,100 acres), SCENARIO II (3,900 acres) or SCENARIO III (800 acres) REALISTICALLY SUPPORT?
 - That answer depends on what specific densities are specified for receiving zones

ENVIRONMENTAL DEFENSE FUND

- ▶ LETS ASSUME FOR EACH SCENARIO THAT MUNICIPALITIES USE ONE OF THE FOLLOWING BONUS DENSITY ASSUMPTIONS :
 1. **1 bonus unit** per acre added to existing base zoning condition
 2. **5 residential units** per acre for receiving zone parcels currently zoned for 4 units per acre or less; and **1 additional residential unit** per acre for receiving zone parcels currently zoned for greater than 4 units per acre

ENVIRONMENTAL DEFENSE FUND

SCENARIO I RESULTS FOR ZONING ASSUMPTION 1

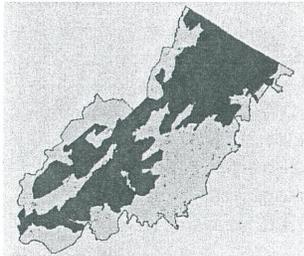


Assumption 1
- base zoning plus one bonus unit

TDR RECEIVING ZONE ACREAGE:
7,100 ACRES
BUILD OUT UNDER CURRENT ZONING:
17,800 RESIDENTIAL UNITS
BUILD OUT UNDER FULLY UTILIZED TDR PROGRAM
25,000 RESIDENTIAL UNITS
POTENTIAL REVENUE FOR LAND PRESERVATION
\$335 MILLION
NUMBER OF MUNIS WITH BOTH RECEIVING ZONE AND PRESERVATION AREA ACREAGE
40 MUNICIPALITIES

ENVIRONMENTAL DEFENSE FUND

SCENARIO I RESULTS FOR ZONING ASSUMPTION 2

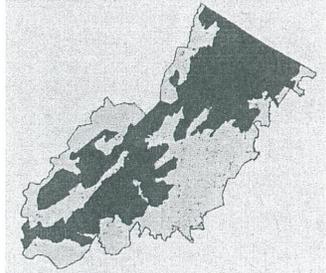


Assumption 2
- 5 units per acre for parcels zoned for 4 units per acre or less
- 1 additional unit per acre for parcels zoned for greater than 4 units per acre

TDR RECEIVING ZONE ACREAGE:
7,100 ACRES
BUILD OUT UNDER CURRENT ZONING:
17,800 RESIDENTIAL UNITS
BUILD OUT UNDER FULLY UTILIZED TDR PROGRAM
40,700 RESIDENTIAL UNITS
POTENTIAL REVENUE FOR LAND PRESERVATION
\$1 BILLION
NUMBER OF MUNIS WITH BOTH RECEIVING ZONE AND PRESERVATION AREA ACREAGE
40 MUNICIPALITIES

ENVIRONMENTAL DEFENSE FUND

SCENARIO II RESULTS FOR ZONING ASSUMPTION 1

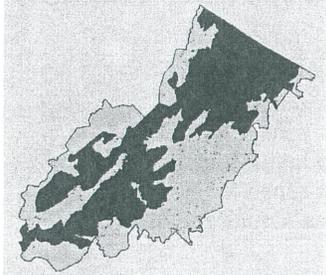


Assumption 1
- base zoning plus one bonus unit

TDR RECEIVING ZONE ACREAGE:
3,900 ACRES
BUILD OUT UNDER CURRENT ZONING:
10,500 RESIDENTIAL UNITS
BUILD OUT UNDER FULLY UTILIZED TDR PROGRAM
14,500 RESIDENTIAL UNITS
POTENTIAL REVENUE FOR LAND PRESERVATION
\$170 MILLION
NUMBER OF MUNIS WITH BOTH RECEIVING ZONE AND PRESERVATION AREA ACREAGE
40 MUNICIPALITIES

ENVIRONMENTAL DEFENSE FUND

SCENARIO II RESULTS FOR ZONING ASSUMPTION 2

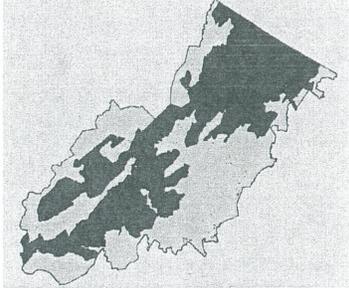


Assumption 2
- 5 units per acre for parcels zoned for 4 units per acre or less
- 1 additional unit per acre for parcels zoned for greater than 4 units per acre

TDR RECEIVING ZONE ACREAGE:
3,900 ACRES
BUILD OUT UNDER CURRENT ZONING:
10,500 RESIDENTIAL UNITS
BUILD OUT UNDER FULLY UTILIZED TDR PROGRAM
22,600 RESIDENTIAL UNITS
POTENTIAL REVENUE FOR LAND PRESERVATION
\$500 MILLION
NUMBER OF MUNIS WITH BOTH RECEIVING ZONE AND PRESERVATION AREA ACREAGE
40 MUNICIPALITIES

ENVIRONMENTAL DEFENSE FUND

**SCENARIO III RESULTS FOR
ZONING ASSUMPTION 1**

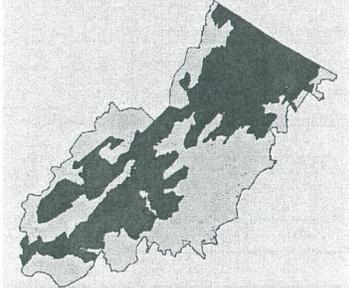


Assumption 1
- base zoning plus
one bonus unit

TDR RECEIVING ZONE ACREAGE:
800 ACRES
BUILD OUT UNDER CURRENT ZONING:
4,200 RESIDENTIAL UNITS
BUILD OUT UNDER FULLY UTILIZED TDR PROGRAM
5,000 RESIDENTIAL UNITS
POTENTIAL REVENUE FOR LAND PRESERVATION
\$39 MILLION
NUMBER OF MUNIs WITH BOTH RECEIVING ZONE AND
PRESERVATION AREA ACREAGE
13 MUNICIPALITIES

ENVIRONMENTAL DEFENSE FUND

**SCENARIO III RESULTS FOR
ZONING ASSUMPTION 2**



Assumption 2
- 5 units per acre
for parcels zoned for
4 units per acre or less
- 1 additional unit per acre
for parcels zoned for
greater than 4 units per acre

TDR RECEIVING ZONE ACREAGE:
800 ACRES
BUILD OUT UNDER CURRENT ZONING:
4,200 RESIDENTIAL UNITS
BUILD OUT UNDER FULLY UTILIZED TDR PROGRAM
5,800 RESIDENTIAL UNITS
POTENTIAL REVENUE FOR LAND PRESERVATION
\$83 MILLION
NUMBER OF MUNIs WITH BOTH RECEIVING ZONE AND
PRESERVATION AREA ACREAGE
13 MUNICIPALITIES

ENVIRONMENTAL DEFENSE FUND

OUR CALCULATIONS

Estimated Developer Willingness To Pay Values

	Units Per Acre					
	<.25	0.50	1.00	2.00	3.00	>4.00
Bergen	\$370,000	\$224,000	\$169,000	\$130,000	\$108,000	\$101,000
Morris	\$220,000	\$133,000	\$100,000	\$78,000	\$64,000	\$60,000
Somerset	\$200,000	\$121,000	\$91,000	\$70,000	\$58,000	\$54,000
Sussex	\$56,000	\$34,000	\$25,000	\$20,000	\$16,000	\$13,000
Warren	\$49,000	\$30,000	\$23,000	\$17,000	\$14,000	\$13,000
Passaic	\$157,000	\$95,000	\$72,000	\$55,000	\$46,000	\$43,000

*Hunterdon County Willingness To Pay Value estimated from the regional average - \$27,000

SCENARIO I

Current Base Buildout

County	Total Units
Bergen	561
Hunterdon	936
Morris	9,468
Passaic	251
Somerset	2,753
Sussex	936
Warren	2,861
Grand Total	17,766

TDR Buildout Assumption 1

County	TDR Buildout	Bonus Units	WTP per Unit	Total WTP
Bergen	815	254	\$101,000	\$25,700,660
Hunterdon	1,520	584	\$27,000	\$15,755,035
Morris	12,907	3,439	\$60,000	\$206,368,461
Passaic	303	51	\$43,000	\$2,213,430
Somerset	3,886	1,133	\$54,000	\$61,157,893
Sussex	1,577	641	\$15,000	\$9,621,236
Warren	3,885	1,024	\$13,000	\$13,312,869
Grand Total	24,893	7,127		\$334,129,583

SCENARIO I

Current Base Buildout

County	Total Units
Bergen	561
Hunterdon	936
Morris	9,468
Passaic	251
Somerset	2,753
Sussex	936
Warren	2,861
Grand Total	17,766

TDR Buildout
 Assumption 2

County	TDR Buildout	Bonus Units	WTP per Unit	Total WTP
Bergen	1,346	786	\$101,000	\$79,345,085
Hunterdon	3,212	2,276	\$27,000	\$61,450,641
Morris	20,073	10,605	\$60,000	\$636,290,514
Passaic	356	105	\$43,000	\$4,493,641
Somerset	6,573	3,820	\$54,000	\$206,278,282
Sussex	3,323	2,387	\$15,000	\$358,089,97
Warren	5,812	2,951	\$13,000	\$38,365,466
Grand Total	40,696	22,929		\$1,062,032,626

SCENARIO II

Current Base Buildout

County	Total Units
Bergen	279
Hunterdon	738
Morris	4,748
Passaic	163
Somerset	2,357
Sussex	476
Warren	1,781
Grand Total	10,543

TDR Buildout
 Assumption 1

County	TDR Buildout	Bonus Units	WTP per Unit	Total WTP
Bergen	377	98	\$101,000	\$9,937,657
Hunterdon	1,043	305	\$27,000	\$8,241,369
Morris	6,232	1,483	\$60,000	\$88,992,132
Passaic	192	29	\$43,000	\$1,238,656
Somerset	3,228	871	\$54,000	\$47,012,619
Sussex	8,90	414	\$15,000	\$6,205,881
Warren	2,455	673	\$13,000	\$8,754,916
Grand Total	14,417	3,873		\$170,383,230

SCENARIO II

Current Base Buildout

County	Total Units
Bergen	279
Hunterdon	738
Morris	4,748
Passaic	163
Somerset	2,357
Sussex	476
Warren	1,781
Grand Total	10,543

TDR Buildout
 Assumption 1

County	TDR Buildout	Bonus Units	WTP per Unit	Total WTP
Bergen	553	255	\$101,000	\$25,724,673
Hunterdon	1,801	1,063	\$27,000	\$28,708,175
Morris	8,937	4,189	\$60,000	\$251,326,545
Passaic	225	62	\$43,000	\$2,677,607
Somerset	5,185	2,828	\$54,000	\$152,700,622
Sussex	2,109	1,633	\$15,000	\$244,89,126
Warren	3,772	1,990	\$13,000	\$25,873,776
Grand Total	22,563	12,020		\$511,500,525

SCENARIO III

Current Base Buildout

County	Total Units
Bergen	83
Hunterdon	435
Morris	1,625
Passaic	3
Somerset	1,413
Sussex	11
Warren	583
Grand Total	4,153

TDR Buildout
 Assumption 1

County	TDR Buildout	Bonus Units	WTP per Unit	Total WTP
Bergen	103	20	\$101,000	\$2,046,374
Hunterdon	498	63	\$27,000	\$1,711,969
Morris	1,900	275	\$60,000	\$16,504,955
Passaic	4	1	\$43,000	\$40,909
Somerset	1,747	334	\$54,000	\$18,015,853
Sussex	13	2	\$15,000	\$32,667
Warren	696	112	\$13,000	\$1,460,598
Grand Total	4,961	808		\$39,813,326

SCENARIO III

Current Base Buildout

County	Total Units
Bergen	83
Hunterdon	435
Morris	1,625
Passaic	3
Somerset	1,413
Sussex	11
Warren	583
Grand Total	4,153

TDR Buildout
 Assumption 2

County	TDR Buildout	Bonus Units	WTP per Unit	Total WTP
Bergen	104	21	\$101,000	\$2,083,514
Hunterdon	513	78	\$27,000	\$2,099,883
Morris	2,117	492	\$60,000	\$29,547,851
Passaic	5	2	\$43,000	\$79,695
Somerset	2,260	847	\$54,000	\$45,713,746
Sussex	16	6	\$15,000	\$82,570
Warren	829	246	\$13,000	\$3,201,836
Grand Total	5,844	1,691		\$82,809,094

Bergen County

- Municipalities with both receiving zone and preservation area land

Municipality	Scenario I acreage	Scenario II acreage	Scenario III acreage	Preservation Area acreage
Mahwah Township	148	69	20	9,687
Oakland Borough	106	30	0	2,622
County Total	254	99	20	12,309

Hunterdon County

- Municipalities with both receiving zone and preservation area land

Municipality	Scenario I acreage	Scenario II acreage	Scenario III acreage	Preservation Area acreage
Clinton Town	36	32	14	141
Clinton Township	244	127	3	639
Holland Township	69	52	0	1,961
Tewksbury Township	10	6	0	13,475
Union Township	55	54	38	10,482
Total	414	271	55	26,698

Morris County

- Municipalities with both receiving zone and preservation area land

Municipality	Scenario I acreage	Scenario II acreage	Scenario III acreage	Preservation Area acreage
Boonton Township	60	31	0	1,593
Chester Township	8	8	0	15,790
Jefferson Township	12	7	0	24,033
Kinnelon Borough	1	1	0	11,954
Montville Township	382	135	1	3,440
Mount Arlington Borough	25	14	0	132
Mount Olive Township	101	32	0	15,865
Pequannock Township	3	3	0	475
Randolph Township	417	70	0	583
Rockaway Township	348	120	36	17,830
Roxbury Township	199	78	6	4,301
Total	1556	499	43	95,996

PASSAIC COUNTY

- Municipalities with both receiving zone and preservation area land

Municipality	Scenario I acreage	Scenario II acreage	Scenario III acreage	Preservation Area acreage
Bloomingtondale Borough	9	8	0	4,179
Wanaque Township	10	2	0	4,641
Total	19	10	0	8,820

SOMERSET COUNTY

- Municipalities with both receiving zone and preservation area land

Municipality	Scenario I acreage	Scenario II acreage	Scenario III acreage	Preservation Area acreage
Bedminster Township	138	125	90	1,011
Total	138	125	90	1,011

Sussex County

► Municipalities with both receiving zone and preservation area land

Municipality	Scenario I acreage	Scenario II acreage	Scenario III acreage	Preservation Area acreage
Byram Township	4	1	0	14,272
Green Township	18	17	0	281
Hardyston Township	252	178	0	12,557
Hopatcong Borough	47	41	0	2,607
Ogdensburg Borough	6	2	0	199
Sparta Township	98	44	1	11,538
Stanhope Borough	18	7	0	5
Vernon Township	44	28	0	29,319
Total	487	318	1	70,778

Warren County

► Municipalities with both receiving zone and preservation area land

Municipality	Scenario I acreage	Scenario II acreage	Scenario III acreage	Preservation Area acreage
Allamuchy Township	147	126	68	5,228
Franklin Township	14	11	0	3,792
Greenwich Township	129	97	6	792
Hackettstown Township	80	26	6	203
Independence Township	42	27	0	6,250
Lopatcong Township	77	17	2	1,051
Mansfield Township	69	56	0	13,047
Oxford Township	34	15	0	2,184
Pohatcong Township	11	10	0	7,582
Washington Township	305	229	0	3,604
White Township	8	7	0	7,812
Total	916	621	82	51,545

**Counties with both receiving zone and
 preservation area land**

County	SCENARIO I acreage	SCENARIO II acreage	SCENARIO III acreage	Preservation Area acreage*	Total County Preservation Area acreage
Bergen	254	99	20	12,309	12,309
Hunterdon	414	271	55	26,698	64,924
Morris	1,556	499	43	95,996	120,124
Passaic	19	10	0	8,820	78,789
Somerset	138	125	90	1,011	1,011
Sussex	487	318	1	70,778	70,778
Warren	916	621	82	51,545	67,030
Total	3,784	1,943	291	267,157	414,965

*Combined preservation area acreage of the municipalities in that county with both receiving zone and preservation area land.

**Comments
of the
Association of New Jersey Environmental
Commissions (A.N.J.E.C.)**

Nitrate Concentration Standards (WQMP Amendments)

**Prepared and Submitted by
David Peifer
Highlands Project Director
June 26, 2008**

ANJEC is pleased to submit the following comments to the Highlands Council in the spirit of constructive criticism and to assist the Council in its deliberations concerning the Regional Master Plan. ANJEC makes these comments of its own volition, owns no property in the Highlands Region and has reviewed no direct compensation for their preparation.

ANJEC strongly urges the Council to continue to utilize the nitrate concentration standards developed by the Council in its reviews and consistency determinations of Water Quality Management Plans, whether within the Preservation or Planning Areas.

We take this position for the following reasons:

- **The Council is required by the DEP Highlands Rules to review and make recommendations to the N.J.D.E.P. on all WQMPs in both the Preservation and Planning Areas for consistency with the RMP. This applies to both the Preservation Area and the Planning Area and both before adoption and after adoption of the RMP.**

At N.J.A.C. 7:38-1.1(k), the DEP rules state:

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

- **Council consistency reviews must at a minimum, provide reasoned guidance for the Department to discharge its functions. Importantly, the reviews must be comprehensive with regard to all elements of the RMP.**

At 7:38-1.1(l), the DEP rules define the Regional Master Plan as,

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

- **The Council has scientifically determined appropriate nitrate limits as a basic land use planning factor for the region to be fully protective of surface and groundwater. These standards are considerably more protective than the NJ DEP statewide 2 mg/l standard, being .74 mg/l for the Protection Zone, 1.88 mg/l for the Conservation Zone and 2 mg/l for the Existing Community Zone. These standards must be considered a part of the RMP.**
- **In reviewing WQMP submissions, and in consideration of consistency determinations provided by the Council, the Department has the ability to utilize more stringent limits than the 2mg/l statewide minimum standard in its review of Highlands WQMPs.**

In its statements accompanying the WQMP Rule proposal the Department states:

“Further, the Department does not intend to limit WMP Planning entities or municipalities from establishing more protective requirements within their jurisdictional areas. Therefore, proposed N.J. A.C. 7:15-5.25 (a) also provides that the standards set forth in the section are the minimum standards, and that the WMP planning entity or municipality can substitute more protective standards. For example a municipality may wish a more conservative water quality target for the nitrate dilution standard, a wider buffer for riparian protection or provide protection for slopes with a grade less steep than 20 percent”.

Conclusions:

The Council is required by rule to review and provide the Department of Environmental Protection with consistency determinations all WQMP amendments in both the preservation and planning areas. These reviews are to be transmitted to the Department of Environmental Protection as “Consistency Determinations” required under the DEP rules. The Department is required to consider these consistency determinations in decision making on Water Quality Management Plan Amendments in both the Planning

and Preservation Areas. The consistency determinations provided by the Council must consider all aspects of the RMP and provide, a minimum, enough information for the Department to exercise its regulatory duties.

The Council has, after considerable analysis, developed a set of standards for the region that are equally or more protective than the *statewide minimum standard* developed by the Department. As part of the RMP, the Council must apply these more stringent standards in WQMP consistency reviews. These reviews, based on the scientific analyses of allowable nitrate concentrations, will be more protective of Highlands surface and groundwaters than the Department's minimum statewide nitrate standards. In considering the consistency reviews submitted by the Council, the Department is free to utilize the more restrictive standards developed by the Council.

ANJEC strongly urges the Council to continue to review all WQMP amendments utilizing the nitrate concentration standards developed under the RMP and to find any WQMP proposals utilizing the statewide 2mg/l limit to be "inconsistent" with the RMP.



168 WEST STATE STREET • TRENTON, NEW JERSEY 08608 • TEL: 609-393-7163 • FAX: 609-599-1209

June 25, 2008

To: John Weingart, New Jersey Highlands Council Chairman
From: Peter Furey, NJFB Executive Director
Re: Comments on June 12 RMP Changes

The New Jersey Farm Bureau in reviewing the new material released to the public on June 12, notes the following points that should be corrected or in some cases added.

Cluster/Conservation Design Development Program:

Though the title and the glossary will still mention "conservation design development," the Program goes into too much detail about what the MLUL says about cluster. The requirement for the set aside land to belong to the municipality or a homeowners' association has been shown to be the kiss of death for new clusters. If MLUL NJSA 40:55D-40 is a very broad power to create any form of development including lot-size averaging, this section language should also include "conservation design," "open lands ratio," and other phrases that would define these innovative rural land use tools. Leaders of rural municipalities need every possible reminder about their ability to use the most innovative and effective tools.

Omit the language about the municipality coming to own the preserved farmland, then renting it to a farmer. Unless there is a long-term lease and requirements to farm actively, towns may tend to allow this land to go out of production and into growth of invasive species and wildlife such as deer.

The changes to policies permitting additional water and wastewater infrastructure in the ARA (which list several instances where they would be allowed including clustering) are still not broad enough to cover expansions of agricultural processing, aquaculture or B&Bs that the RMP allows in other policies, adding value to crops to increase farm income and so forth. There aren't too many improvements to a farm to increase sales that don't these days require renovated or expanded septic systems.

Cluster Design for Environmental Protection as now written sets none of the same stringent management requirements on those who will own or manage that set-aside land. There must be no difference, so among other requirements should include a mandated land management plan also monitored by the Highlands Council and other appropriate agencies

Part 3. Agricultural Resources

Agricultural Sustainability, Viability, and Stewardship:

We still have questions about what will be the language of the required "conservation easement" on all set-aside land.

Several new sections including the Right to Farm Act cause some concern:

These policies limit the requirement for a municipality to include Right to Farm provisions in their master plans and ordinances to municipalities and counties "with farmland preservation programs or a significant agricultural land base." This may not cover all active farm operations.

2. New Policy 3E4: "To address agricultural or horticultural development and use through Plan Conformance with the Right to Farm Act" coordinating with the NJDA, the SADC and the CADBs. Does this mean that for every town, there will be detailed decisions made up front about what future agricultural development or agricultural land use will be permitted? We oppose such a requirement since there is no way to predict what changes a farm operators will need to make to continue to be viable in the future. The proper way to deal with this is with Site Specific AMPs as the changes develop over time.

3. New Objective 3E4a: states that the SADC and Highlands Council will "cooperatively develop specific AMPs that address air and water quality control, noise control, pesticide control, fertilizer application, IPM, labor practices and other related activities consistent with the resource management and protection requirements of the RMP." This seems to assume that there are not already federal or state statutes or rules already in place to deal with any questions about farm practices. There are Agricultural Management Practices for some of these issues adopted by the SADC based on annual recommendations of the New Jersey Agricultural Experiment Station. Labor practices are governed by both federal and state statutes and regulations. The New Jersey Farm Bureau opposes the Highlands Council insisting on developing further regulation that could conflict with what is already being imposed and render Highlands agriculture at a disadvantage compared to agriculture outside the Highlands.

4. New objective 3E4b requires development of municipal and county regulations not only consistent with the Right to Farm Act but "necessary to address agricultural practices that pose a direct threat to public health and safety." Again, these concerns should be addressed through the traditional channels of state regulation of agriculture, not through a separate code for the Highlands farms.

Funding Opportunities talks about coordinating with the State Historic Preservation Office and the SADC to include "historic structures in tax incentive and adaptive reuse funding programs" but does not say anything about expanding opportunities to use historic farm structures for non-farm purposes.

The New Jersey Farm Bureau supports the positive language changes about the need for agricultural operations to evolve, to add business opportunities (though the examples are limited) and housing for the farm family and labor.

Highlands Restoration: Water Deficits Program:

The New Jersey Farm Bureau supports language that states that DEP rules will continue to approve agricultural water allocations but:

New objective 2B4d: Highest priority is awarded to agricultural uses in the Preservation Area "only if they provide agriculture or horticultural compatible with Highlands resource protection." Who will decide what is compatible? Those in the Planning Area that "promote continuation & expansion of agricultural/horticultural, recreational, cultural uses and opportunities" would receive water and not others? "Compatible agricultural/horticultural uses shall minimize consumptive water uses through efficiency measures." This only repeats language from the Highlands Act that has consistently concerned the farm community, but still leaves unanswered the question of who decides what is compatible or permissible and upon what basis.

The required municipal/county Water Use & Conservation Plan must contain numbers on agricultural water use that even the New Jersey Agricultural Experiment Station does not possess. A municipality/county cannot forbid new or increased uses without a scientifically based reason. Or also review the figures (in conjunction with other water use/deficit info) when permits are renewed. This is an unnecessary and redundant step when all that information has been provided to the county agricultural agents and the DEP as basis for the water allocation.

New Objective 2G5c: There is no need for the Highlands Council and SADC to develop new water use AMPs with all sorts of new protections and possible limitations when there is a detailed water allocation process already in place. There may be a need for guidelines based on the USDA NRCS FOTG practices and cost-sharing funding as incentives for farmers to use them.

New Objective 7F1h: Exemption determinations are limited to activities authorized by the Highlands Act but "water conservation requirements, septic maintenance requirements or any other activities related to the use of that dwelling" are not exempt. Where in the Act does it limit exemptions in this way? New Jersey Farm Bureau opposes any measure in the RMP that takes away the feasibility of using the one "fair compensation" mechanism allowed by the Legislature.

On the other hand, New Jersey Farm Bureau supports and appreciates continuing to give the highest priority for Net Water Availability for TDR Receiving Zones in the Existing Community Zone.

Part 3 Improvement of the Regional Master Plan

Subpart a. Water Resources and Ecosystem Science Agenda

There is no section on Agricultural Sustainability similar to Forest Sustainability. Please add:

"The Highlands Council will implement a long term agricultural sustainability program that would monitor past and future research on the effectiveness of agricultural Best Management Practices and the feasibility of development of a carbon sequestration

program for adding value to farmland. This would be similar to programs being developed in many states.”

Restoration of Streams and Riparian Areas Program:

In this program statement there should be a description of the benefits of applying for the USDA and New Jersey Conservation Reserve Enhancement Program (CREP) that provides free technical assistance and significant long-term rental payments to landowners who convert cropland to riparian buffers and other stream protection BMPs. The plans developed for this program typically analyze each site and determine the most appropriately sized buffer to produce the most conservation benefits.

Therefore the New Jersey Farm Bureau supports Objective 1D4i that proposes important and necessary flexibility in determining buffer widths, rather than imposing a rigid 300 ft.

#