

NEW JERSEY HIGHLANDS WATER PROTECTION
AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 27, 2008

PRESENT

JOHN WEINGART)	CHAIRMAN
KURT ALSTED)	COUNCIL MEMBERS
TRACY CARLUCCIO)	
BILL COGGER)	
JANICE KOVACH)	
MIMI LETTS)	
DEBBIE PASQUARELLI)	
ERIK PETERSON)	
JACK SCHRIER)	
GLEN VETRANO)	
TAHESHA WAY)	
SCOTT WHITENACK)	

ABSENT

ELIZABETH CALABRESE)
TIM DILLINGHAM)

CALL TO ORDER

The Chairman of the Council, John Weingart, called the 64th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:03 am.

ROLL CALL

The members introduced themselves.

OPEN PUBLIC MEETINGS ACT

Chairman Weingart announced that the meeting was called in accordance with the Open Public meetings Act, N.J.S.A. 10:4-6 and that the Highlands Council had sent written notice of the time, date, and location of this meeting to pertinent newspapers or circulation throughout the State and posted on the Highlands Council website.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF MINUTES OF FEBRUARY 28, 2008

Mr. Schrier introduced a motion to approve the minutes. Mr. Cogger seconded it. All present voted to approve. The minutes were APPROVED.

APPROVAL OF MINUTES OF MARCH 6, 2008

Mr. Schrier introduced a motion to approve the minutes. Ms. Letts seconded it. All present voted to approve. The minutes were APPROVED.

Mr. Vetrano and Mr. Alstede joined the meeting.

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CHAIRMAN'S REPORT

Mr. Weingart discussed the amended meeting schedule and the projected date of July 17, 2008 for a Council consideration of the adoption of the Regional Master Plan. He noted that the process would follow the process previously used where issues would be discussed as a full Council with straw votes to indicate direction and with the Council acting as a whole rather than using Council committees. He proposed the use of limited committee meetings with the exception of the TDR Committee and other committees as administratively necessary, e.g. Personnel, Budget and Audit Evaluation. Mr. Weingart asked that if the Council Members had additional issues to add to the list of Regional Master Plan issues that those issues be directed to Eileen Swan in the next week.

Mr. Weingart mentioned the memorandum in the member packets on the proposed elimination of the Department of Agriculture and asked the staff to prepare a resolution for the next meeting to be given to the Governor and the Legislature on this topic. He summarized the importance of the functions of the Department of Agriculture for the Highlands Council's work and expressed the need to support for the logical continuation of those functions.

Mr. Weingart noted for the Council members that the Ethics Disclosure forms are due by May 15th and that Kim Ball Kaiser, is available to help Council members as needed.

He announced that South Branch Watershed Association was awarding its environmental achievement award to the Highlands Council and Staff tomorrow evening.

Mr. Schrier commented that in the NJ Highlands Coalition newsletter of Winter 2008 there was an article written by Wilma Frey of the NJ Conservation Foundation which discussed the Final Draft RMP and she noted that there had been progress on the Goals, Policies and Objectives, but that more specifics were needed in the areas of water supply, water quality, natural resource and land use policies. He also mentioned that he had had a conversation with Congress Frelinghuysen and that he had expressed concern that Federal funding had not been appropriated for the Highlands Region in CT, NY, PA, and NJ and that he would continue to advocate for that funding in Congress.

Mr. Schrier continued his comments describing a resolution from the March 12th Morris County Freeholder meeting that detailed opposition to the elimination of the Department of Agriculture that was modeled on the resolution from Chester Township. He suggested that this resolution be the basis for a similar document to be prepared by staff for the Council to discuss highlighting the areas where the Department of Agriculture is beneficial and what will happen when those functions are gone.

Mr. Schrier also brought comments that he had received on the Final Draft RMP at his office and noted that the template developed by the NJ Environmental Federation had been widely followed by those commenting. He noted that he thought that it was excellent that many people had weighed in on the issues, but that he wished that the comments were more substantive. He then discussed his view of his recusal at the last Council meeting. He

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commented that he believed that elected officials who are elected by the public are good candidates to be council members.

Mr. Peterson joined the meeting and Debbie Pasquarelli was acknowledged on the phone.

Chairman Weingart discussed the ethical issue of Council members having individual meetings with constituent groups. He noted that Council members in discussion should not make commitments or discuss individual decisions. The Council discussion that followed included that if inquiries were with respect to specific applications that they be referred to staff. Several Council members who were elected officials stated that they believed it was their duty to be available to their constituents. There was additional discussion about sharing these private conversations with lobbying organizations.

Ms. Carluccio asked Mr. Borden for clarification on this issue of sharing information. He made a distinction between the quasi legislative decision making involved in the development of the Regional Master Plan and the quasi judicial duties in hearing a specific development application. He noted that because the public comment period is over, there should be no expectation provided that any comments given will be part of the permanent record, but that there will continue to be public comment given at the Council meetings.

Lastly, Chairman Weingart discussed the need to add a meeting on July 24th to consider the minutes of July 17th.

EXECUTIVE DIRECTOR'S REPORT

Ms. Swan reminded Council Members to complete their ethics training online by April 15th and also to complete the disclosure forms by May 1st. She commented that Kim Kaiser had prepared a draft letter to the Ethics Commission that will be distributed to members. Ms. Swan reviewed the status of public comments and that the comments are on the Highlands Council website and can be sorted by name, organization, and issue. She noted that the letter to COAH had been sent with input from Council Members.

Ms. Pasquarelli left the call.

Ms. Swan noted that the 2007 Annual Report is in draft and Council Member comments need to be received as soon as possible as the deadline for submission is March 31st. Mr. Cogger has received the financial report as Treasurer and Chair of the Budget and Finance Committee.

She reviewed the recent meetings as: March 8, NJ Land Trust Rally RMP; March 10 Mountain Lakes Informational Meeting, March 12, discussion with Mt. Olive with the Office of Smart Growth, March 12 Mendham Borough Informational meeting March 18 Chester Township informational meeting, March 19 Hampton Borough mayor to look at COAH issues and exemptions, March 25 Randolph Township Informational Meeting and with Somerset County Wastewater Management Planning, March 28 ICLE presentation, April 2, Presentation to NJ County Transportation Association, April 4 County Planners Meeting and presentation to RPA conference.

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She continued with an overview of the Plan Development Issues to finalize the Regional Master Plan. She noted that some issues will not be in the RMP, but are part of ongoing work. There are other issues not on the power point today of clarity and consistency that will be addressed. She mentioned that there would be professional editing services provided by AKRF as part of the graphic design contract with that firm.

Ms. Swan began by discussing the principal issues for Council discussion including Cluster Development, the Confidential Lists of Priority Parcels for Agricultural and Open Space Preservation. Mr. Weingart clarified that if Council members had other issues that they needed to provide them to staff within the next week for inclusion in the work plan. Ms. Carluccio commented that there were recommendations in the issues paper distributed to Council members and it was confirmed that if there were additional recommendations should they be added as well.

Ms. Pasquarelli rejoined by telephone.

Ms. Swan continued with Designation Procedures of Scenic Resources Inventory and Redevelopment Sites Designation, Housing Program, Land Preservation Program, Plan Conformance Project Review Standards, Web – based Guidance System, Guidelines for Carbonate Rock, Lake Management Areas and Low Impact Development Best Management Practices, Standards for Smart Growth and Community design, and Model Ordinances.

Ms. Swan discussed that many towns have existing ordinances, but that the recommendation would be to create standards and to look at the ordinances to be equal to or superior than those standards proposed by RMP. She remarked that consistency would be a focus of this effort. Mr. Cogger commented that the legal shield for conformance and Ms. Swan noted that they would be. Mr. Alstede asked about bullets and the absence of the Right to Farm and Agriculture and Ms. Swan acknowledged that those issues were addressed in the next presentation and that Right to Farm was mandatory in Plan Conformance. The next issue was WQMP Reviews procedures.

Ms. Pasquarelli joined the meeting in person.

Ms. Swan continued with Transportation & Capital Reviews and Growth Inducing Projects. Mr. Alstede asked if there would be at least one project in the Plan for the council to endorse and Ms. Swan confirmed that there would be at least one project as a result of work with the NJTPA and Voorhees. The next topic was Plan Conformance, Technical/Procedural Guidelines and Grant Guidelines, Property Search Tool, Public Comment and Response Tracking/Document, RMP Update Procedures, Plan Endorsement Build-Out Model, Plan Endorsement Petition, Septic Density Model, Amend and Finalize Technical Reports, Transportation, Water Utility Program, Land Preservation & Stewardship, Buffers for Highlands Open Waters, Critical Habitat GPO's and Program, Water Availability & Deficits, Public Health & Safety Waiver for Failing Septic Systems, Sustainable Agriculture, Land Use Capability Map Zones, Plan Conformance Summary & Checklist, RMP Adjustment Procedures, and Transfer of Development Rights.

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Chairman Weingart asked council members to get any other issues to Ms. Swan within a week so that there would be a complete list of issues.

Ms. Swan continued her report with another presentation on Prioritizing Properties for Acquisition by Green Acres and SADC. She noted that as a requirement of the Highlands Act, the Highlands Council must provide SADC and Green Acres with a confidential list of recommendations for acquisition that is to include methodology for prioritization and TDR Receiving Zones. She reviewed the requirements for the Agricultural Priority Area and how those parcels were identified. There was significant discussion on the comparison of the staff work to County and State priorities. Ms. Swan discussed the Morris County requirements and reviewed the elements that contributed to high priority. Mr. Cogger and other members discussed the viability of using 25 acres as the minimum size farm as a sustainability issue. Ownership of several 25 acres parcels could make up one unit from a farming standpoint. Ms. Swan noted that the staff was looking at those issues. There was also a dialogue among members on the issue of agricultural lands that could have cropland and forested lands. It was thought that those parcels should be on both the SADC and Green Acres list. Ms. Letts asked for a copy of the Morris County CADB guidelines.

Additional discussion focused on the priority list, how it would be disseminated to other funding sources, for example, municipalities, county and state agencies. Ms. Swan also remarked that the priorities for acquisition are different from the Highlands and SADC.

COMMITTEE REPORTS

There were no committee reports.

CONSIDERATION OF RESOLUTION TO AMEND MEETING SCHEDULE

Chairman Weingart added a conference call meeting July 24 at 10 am to confirm the minutes of the July 17, 2008 meeting to the resolution. Mr. Schrier introduced a motion to approve as amended. Mr. Cogger seconded it. All members present voted to approve. The motion was APPROVED.

PUBLIC COMMENT

Julia Somers, NJ Highlands Coalition

She spoke regarding a document from the law firm of Hill/Wallach regarding the COAH rules and the proposed units for various municipalities. She discussed the vacant land analysis that COAH had used and mentioned that the Highlands Council was listed as a contributor to the calculations. She advocated that if the Highlands Council had noted substantively contributed to those calculations that additional comments be sent to COAH on that subject.

Katherine Natafalusy, Planning Administrator, Mt. Olive

She read a letter from Mayor Scapicchio from Mt. Olive that was submitted for the public record on an issue for the BASF property in the foreign trade zone.

David Shope, Long Valley

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He reiterated a personal experience of a farmer who owned a 100 acre farm and had not been able to consummate a farmland preservation project with Morris County. He advocated that the list of acquisition priorities be made public.

Helen Heinrich, NJ Farm Bureau

She asked about a public workshop on TDR and was advised that there will be a TDR Committee meeting. She suggested that the NJDA and SADC were not actively involved in the acquisition list. She suggested that natural resource restrictions be a part of the deeds in TDR. She also noted that forest woodlands are different than forest preservation. She suggested that the parcel that had agriculture and forestry needs clarification.

Wilma Frey, NJCF

Ms. Frey commented on the COAH rules and noted that she had submitted comments to Eileen Swan and Tom Borden and also remarked that the COAH rule did not acknowledge the RMP only the DEP rules, although other regional plans were mentioned, e.g. Pinelands. She suggested that the Technical Advisory Committees meet again to review the Technical Reports.

Monique Purcell, Department of Agriculture

She thanked the Council for following up on the impacts of the Department of Agriculture. She suggested that information discussed at the Council meeting be released in advance of the meetings. She remarked that she would look at the list and agreed with Mr. Alstede that there needed to be a forest legacy type program in the plan and was also concerned with the 25 acre threshold.

Andrew Drysdale, Chester Township

Mr. Drysdale submitted his comments for the public record. He advocated that the priority parcel list be made public. He spoke against the elimination of the Department of Agriculture and believed that to protect water quality statewide that the information needs to be provided to the municipalities.

Dave Peifer, ANJEC

He asked that the Council investigate how to handle its quasi judicial role by perhaps looking at how Pinelands does it. He also commented on the COAH numbers and the use of developable land analysis. He believes that more investigation is necessary for the methodology used for the land analysis. He also remarked on the fact that ANJEC had a library of model ordinances and suggested that the term "sample" is a better term. He thought that moving for uniformity as opposed to the particular situations in each municipality was important. He was under the impression the RMP represented minimum standard and say that a municipality can be more stringent and then will the legal shield apply if the municipality is more stringent. He thought there should be a disclaimer for data on the Property Search tool. He also asked for a guide to using the technical reports to be included in the CD. He would like to see the methodology for plan endorsement build out model and have peer review for that. He noted that build out models are being requested all over the state and that it is turning into the "battle of the models". He advocated for an overt methodology.

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Mr. Alstede asked for an outline on the trade zone issue in Mt. Olive. Ms. Swan remarked that she had asked Mt. Olive for mapping and staff would be looking at the issues.

Mr. Weingart announced the next Council Meeting will be April 10th at 10 am. Mr. Schrier made a motion to adjourn and the meeting was adjourned at 1:20 pm.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Water Protection and Planning Council.

Date: 4/7/08

Name: Paula M. Dees
Paula M. Dees, Executive Assistant

**Vote on the Approval of
these Minutes**

	<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	✓			

TRUE COPY

PUBLIC COMMENTS SUBMITTED

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

March 27, 2008

Highlands Council
100 North Road
Chester, NJ 07930

First we had a Governor who signed the Highlands Act into Law. This was a huge power grab that adversely affected many farmers. Now we have a Governor who wants to eliminate the Department of Agriculture in a state proudly known as the Garden State. This is nothing more than another power grab or perhaps a lever to force us to support his previous plan.

There is no doubt that there need to be spending cuts, but merging one department into another like the NJDEP, which is already too powerful, will likely save very little money and will remove much of the farmers' voice in State Government. Municipalities, farmers and all citizens need to be aware and stand up against the centralization of government power.

Spending could be cut by the elimination of many of the departments which were recently created by the two previously described Governors. The Highlands Act is just one of those that infringe on the rights of citizens and cost the taxpayers money.

The Highlands Act in its 372 pages, contained many pages of a sales pitch, much of which has proved to be nothing but spin. It tries to make the case that property values will be increased because of it. This has certainly been proven to be false as well as other allegations therein.

If this misguided Act were really just about water, it should have protected and improved water quality where it falls, on the entire State instead of punishing those in the so called "Preservation Area" who have done the best job of preserving it in the past.

The Highlands Council could help the people of New Jersey by supplying the information they have gathered to Municipal Governments and the State Department of Agriculture and by refusing to approve a Final Master Plan until all of the onerous restrictions are removed including the theft and control of thousands of acres of unnecessary buffers by the oversized and out of control NJDEP.

Sincerely,



Andy Drysdale

cc: Others

Office of the Mayor
David M. Scapicchio
Mount Olive Township
204 Flanders-Drakestown Rd.
Budd Lake, NJ 07828

March 27, 2008

Highlands Council
100 North Road
Chester, N. J. 07930

Highlands Council Members:

I am here today to provide the Council with some factual information on a parcel of land within the Foreign Trade Zone that is in the Planning Area of the Highlands but now falls within the protection zone.

Lot 4 in Tax Block 301 is a 57 acre tract of land which was incorporated into the Foreign Trade Zone in 1989 for a payment of \$5 million to the NJ Department of Environmental Protection's Green Acres Program. Lot 4 received preliminary site plan approval from the Township's Planning Board to develop 700,000 square feet of office space which was memorialized in the Board's resolution of November 8, 1990. This approval was granted an extension by the Planning Board on November 14, 2002 for a period of ten years, through November 8, 2010.

At the time of sale, an agreement was executed whereby Green Acres would have, at the time of sale, the first option to acquire the 57 acres for \$5 million. The agreement also required the return of 67 acres to the owner of the Foreign Trade Zone, which now protects the Musconetcong River corridor.

In compliance with this agreement, the current owner, BASF, contacted Green Acres in 2004 to offer the sale of the property back to Green Acres. However, Green Acres had used the funds generated by the sale of the 57 acre tract to purchase other lands. In addition, the Mount Olive Township Council was concerned with the loss of an essential commercial ratable and adopted a resolution on May 24, 2005 that recommended that Green Acres buy other open space in the preservation area and that the Musconetcong River corridor be protected to the fullest extent by continuing ownership of the 67 acres buffering the river.

We hope that you will consider this information and update the Land Use Capability Map to reclassify this property as Existing Community.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Scapicchio', with a stylized flourish at the end.

David Scapicchio, Mayor
Mt. Olive Township