

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF OCTOBER 21, 2010

PRESENT

JACK SCHRIER) ACTING CHAIRMAN

KURT ALSTEDE) COUNCIL MEMBERS

BILL COGGER)

TRACY CARLUCCIO)

MICHAEL FRANCIS)

JANICE KOVACH)

MIMI LETTS)

CARL RICHKO)

ROBERT HOLTAWAY)

VIA TELECONFERENCE

JAMES VISIOLI)

ABSENT

GLEN VETRANO)

CALL TO ORDER

The Acting Chairman of the Council, Jack Schrier, called the 98th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:18am.

ROLL CALL

Roll call was taken. Messrs. Vetrano and Visioli were absent. All other members were present.

OPEN PUBLIC MEETINGS ACT

Acting Chairman Schrier 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 SEPTEMBER 23, 2010

Ms. Kovach introduced a motion to approve the minutes. Ms. Letts seconded it. Messrs. Vetrano and Visioli were absent. All other members voted to approve. The minutes were APPROVED 9-0.

ACTING CHAIRMAN'S REPORT

Acting Chairman Schrier reported that he was very pleased with the last meeting and Council's approval of Byram's Township Petition for Plan Conformation. Mr. Schrier further stated that at today's meeting Council will have an opportunity to vote on Chester Township's Petition for Plan Conformance. Mr. Schrier reported that Chester Township is one of 39 municipalities in Morris County, 32 of which are located in the Highlands Region.

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EXECUTIVE DIRECTOR’S REPORT

Plan Conformance Update

Ms. Swan gave a brief update to the Council on Plan Conformance Petition reviews. To date, 64 Petitions for Plan Conformance have been submitted to the Highlands Council (59 Petitions from municipalities and 5 from counties). Ms. Swan noted that the latest submissions are from Phillipsburg and Alpha who have shown interest in Highlands Center designation. 47 Petitions (including 2 counties) have been deemed administratively complete and posted to the Highlands Council website. Council staff has reviewed 36 full Petitions and prepared Draft Consistency Review and Recommendations Reports for each. Of these, 12 have been completed and sent to the petitioning municipality or county (as listed below):

Tewksbury Twp.	Bethlehem Twp.	Califon Borough
Clinton Town	Glen Gardner Borough	Lebanon Borough
Mount Olive Twp.	Rockaway Twp.	Passaic County
Mahwah Twp.	Chester Twp.	Franklin Twp.

Ms. Swan further stated that Byram Township’s Petition for Plan Conformance has been approved by Highlands Council, that Chester Township is being considered today, and that Hampton Borough’s Petition is in the public comment period. The Hampton municipal response period was waived by the municipality. The public can follow the Plan Conformance process on the website. A map was then showed of the Highlands Region noting that approved Plan Conformance municipalities are noted in blue which will track the Council’s progress.

Plan Conformance Grant Program

Ms. Swan then provided an update on the Highlands grants programs as requested by the Council. The average amounts requested for reimbursement by municipalities that are participating in Plan Conformance grant activities were shown. On average, reimbursement requests to date are within the base amounts established by the Highlands Council. Ms. Swan further noted that Council staff anticipates that some towns will need additional grants due to unique circumstances.

<u>Towns</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,177	67
Module 2	\$10,000	\$ 6,323	62
Module 3	\$ 7,500	\$ 10,548	47
Module 4	\$ 2,000	\$ 3,178	52
Module 5	\$ 2,500	\$ 5,590	43
Module 6	\$ 5,000	\$ 3,829	41
Module 7	\$ 8,000	\$ 6,156	37
Total	\$50,000	\$49,801	

Mr. Visioli teleconferenced into the meeting at 10:25am.

Ms. Swan then advised Acting Chairman Schrier that her report was complete. Mr. Schrier then advised that the next matter was Chester Township’s Petition for Plan Conformance. *Council Member*

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Cogger recused himself from the Public Hearing portion of the meeting on Chester Township's Petition for Plan Conformance at 10:26am.

Mr. Borden summarized the State Ethics Commission's advice regarding recusal of members. He stated that elected officials must recuse themselves from Plan Conformance Petitions that are submitted to the Council for their municipality or county; however, those Council Members that live in the municipality need not recuse themselves from voting unless the application poses a specific conflict. Accordingly, the Mayor of Chester Township has the right to appear before the Highlands Council in support of the Petition for Plan Conformance on behalf of his municipality and must recuse himself from Council action on the Petition. For the record Mr. Alstede stated that he resides in Chester Township but will vote on the Petition.

Public Hearing and Consideration of Resolution– Petition for Plan Conformance by Chester Township, Morris County

The Council then commenced the Public Hearing on the Plan Conformance Petition of Chester Township. Ms. Swan expressed thanks to Joan Case for submitting some photographs of Chester Township to be used in today's presentation and also recognized resident staff photographer Nathan McLean who has also taken photographs of Chester Township for the presentation and will be taking photos today to commemorate the meeting. Ms. Swan thanked the Highlands staff for all their team efforts and, in particular, James Humphries who is Chester Township's liaison.

Ms. Swan then proceeded with the PowerPoint presentation of the Petition of Chester Township for Plan Conformance and presented photographs of Chester Township so the Council could focus on the character of the community and the past planning and protection initiatives of Chester Township. Ms. Swan quoted from the Chester Township Master Plan that "In the years leading to the revolution and on into the early 1800's, Chester Township was an important stagecoach stop on the trip from New York, New Brunswick, and Morristown to Phillipsburg."

Ms. Swan presented background statistics and information for Chester Township.

- Established: 1799
- Population (2009): 7,771
- Land Area: 29.2 sq. mi./ 18,694 Acres
- Agricultural Lands: 3.3 sq. mi. / 2,110 Acres (809 acres Preserved Farmland) – 11%
- Preserved Lands: 11.3 sq. mi./ 7,258 Acres – 39%
- Wetlands, Lakes & Ponds: 3.4 sq.mi. / 2,152 Acres – 11%
- Significant Parks: Hacklebarney State Park, Black River Wildlife Management Area (state); Black River Greenway and Black River Park (county); Bamboo Brook Outdoor Education Center (county); Tiger Brook Park (municipal); Chubb Park (municipal)
- Sites on the Highlands Scenic Resource Inventory: Hacklebarney State Park, Black River Wildlife Management Area, Bamboo Brook. Ms. Swan drew the attention of the Council and the public to a photo that included the invasive species 'Purple Loosestrife' she indicated that the Mayor had asked that she acknowledge the ongoing efforts of Chester Township to eradicate this species.

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Ms. Swan presented significant Highlands statistics as they pertain to Chester Township:

- Preservation Area Lands: 24.7 sq. mi./ 15,790 Acres – 84%
- Planning Area Lands: 4.5 sq. mi./ 2,904 Acres – 16%
- Highlands Open Water Protection : 12.4 sq. mi./7,933 Acres – 42%
- Severe Steep Slope Areas: 6.9 sq. mi./ 4,448 Acres – 24%
- Forest Areas: 15.2 sq. mi./ 9,745 Acres – 52%
- Agricultural Priority Areas: 9.2 sq. mi. / 5,874 acres – 31%
- Conservation Priority Areas: 6.2 sq. mi./ 3,956 Acres – 21%

Chester Township Background Statistics – Land Use		
NJDEP Land Use/Land cover (2005/2007)	Acres	Percent
Residential(Single & Multi Family)	3,870	21%
Commercial (Retail)	157	1%
Industrial & Transportation & Utilities	244	1%
Agriculture (Crops & Plantations)	2,131	11%
Recreational lands (Public and Private)	132	1%
Other	306	2%
Subtotal Developed Lands	6,840 (10.7 sq. mi.)	37%
Mixed Forest	8,694	47%
Shrub & Scrub	917	3%
Mixed Wetlands	2,027	11%
Barren Lands	84	1%
Surface Waters (lakes, Ponds & Tributaries)	132	1%
Subtotal Natural Lands (incl. Open Space)	11,854 (18.5 sq. mi.)	63%

Ms. Swan then showed a movie representing a ‘fly over’ of Chester Township and made note that Willowood Arboretum was misspelled in the presentation. Ms. Swan explained that the error had been caught but when the Highlands staff tried to correct this typo, the system crashed. Because of this system failure the error could not be corrected in time for the meeting. The ongoing issue related to the size of the files for GIS a new server would be purchased to resolve the issue and would be discussed later in the meeting when the budget was being reviewed.

Ms. Swan noted that Chester Township maintains an up-to-date comprehensive Master Plan (including all mandatory elements and numerous optional elements), Chester has a history of proactive engagement in community planning and conservation initiatives:

- Right to Farm Ordinance – 1996 (used as a municipal model)
- Highlands Planning Area Land Use Assessment – 2005
- Chester Township and Chester Borough Consolidation Study
- Four Towns Recreation Plan – 2009 (Chester Township, Chester Borough, Mendham Township and Mendham Borough)
- Environmental Plan and Utility Plan Master Plan Element Amendments to Protect Public Wells – 2004

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- Stormwater Management & Pollution Prevention Plans
- Mayor's Institute (lead by the Regional Plan Association for sustainable development in the New Jersey Highlands area) – Lace Factory Analysis for Redevelopment

Ms. Swan showed the ordinance maps for Chester Township. Ms. Swan continued to provide an overview of the Petition for Plan Conformance and the administrative record for Chester Township:

12/07/09	Petition for Plan Conformance Submitted
2/4/10	Petition Deemed Administratively Complete
2/9/10	Petition Posted to Highlands Council Website
6/17/10	Draft Consistency Report Sent to Municipality
9/29/10	Final Draft Report Posted to Highlands Council Website
10/14/10	End of Public Comment Period (Start 9/30/10)
10/18/10	Final Report Posted to Highlands Council Website
10/21/10	Highlands Council Public Hearing

Ms. Swan noted that Chester Township had completed the following required Module Submittals:

1. Current Municipal Conditions & Build-Out Analysis
2. Land Use and Resource Capacity Analysis
3. Housing Element & Fair Share Plan
4. Environmental Resource Inventory
5. Master Plan Highlands Element
6. Highlands Area Land Use Ordinance
7. Petitioning Resolution, Municipal Self-Assessment, Highlands Implementation Plan & Schedule

With respect to Module 1 and 2, the analysis uses a limiting factor analysis to examine land-based, resource-based, and utility-based capacities. The Highlands Municipal Build-Out Report for Chester Township was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The Report is dated July 2009 and was posted to the Highlands Council website on July 9, 2009. Staff RMP Consistency Finding is that Chester Township's Highlands Municipal Build-Out Report is consistent with the RMP.

Ms. Swan made note that the Highlands Municipal Build-Out Report is Highlands work and is not based on municipal zoning. The information is compiled by the Highlands Council and shared with the municipality to verify the accuracy of that information. If anything is inaccurate the municipality corrects the information and substantiates those corrections. Ms. Swan further noted the Build-Out reports are completed based on the mandates of the Highlands Regional Master Plan and the Highlands Act which says that the resources assessments should be done and then the Council should determine the amount of development that could occur based on the protection of those resources.

With respect to Module 3, Ms. Swan provided a summary of Chester Township Fair Share obligations and plan:

- Rehabilitation Share: 4 Units
- Prior Round Obligation: 32 Units

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- Growth Share Obligation: 19 Units
- Summary of Chester Township Fair Share Plan
- Municipal Rehabilitation Program: Completed.
- Prior Round Sites:
 - 15-unit 100% affordable project. Completed.
 - 9-unit special needs project. Completed.
 - 1 Accessory Apartment.
 - 3 Prior cycle Credits and 6 Bonus Credits.
- New Project/Sites:
 - Community Residence for Developmentally Disabled (Glenlora site). 15 units.
 - Habitat for Humanity 1-family home.
 - Rental Bonus Anticipated Credits: 7

The Staff RMP Consistency Finding is that Chester Township's Fair Share Plan and Housing Element is consistent with the RMP.

Ms. Swan asked Mr. Borden to give a brief summary on the recent litigation regarding affordable housing. Mr. Borden gave a summary that the Appellate Division invalidated portions of COAH's third round rules, known as their growth shared rules, finding that the rules were determined to violate the Mt. Laurel constitutional doctrine by providing a municipality with too much discretion to avoid growth through zoning and thus avoid an affordable housing obligation. COAH is now in a position to determine if they want to appeal this matter to the New Jersey Supreme Court. In addition, the Assembly Housing Committee Chair introduced a bill similar to Senate Bill #1 to fundamentally alter the way affordable housing is advanced in New Jersey. Mr. Borden stated that regarding Chester Township, the municipality has already submitted their Fair Share Plan to COAH for certification.

Mr. Holtaway asked what happens if a town is already third-round certified. Mr. Borden states that until the matter is reviewed or until COAH adopts new rules, there will be uncertainty. Ms. Swan commented that Highlands Council staff stays on the proactive side of assisting municipalities with their affordable housing planning.

With respect to the Environmental Resource Inventory, Module 4, Ms. Swan noted the following:

- Describes & Illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality
- Chester Township Submittal Based on Highlands Council Model Environmental Resource Inventory
 - All Applicable Narrative Portions Retained
 - All Applicable Exhibits Included

The Staff RMP Consistency Finding is that Chester Township's Environmental Resource Inventory is consistent with the RMP.

With respect to the Master Plan Highlands Element, Module 5, Ms. Swan noted the following:

- Chester Township Submittal Based on Highlands Council Model
 - All Applicable Narrative Portions Retained
 - All Applicable Exhibits Provided

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The Staff RMP Consistency Finding is the Chester Township's Master Plan Highlands Element is consistent with the RMP.

With respect to the Highlands Area Land Use Ordinance, Module 6, Ms. Swan noted the following:

- Chester Township Submittal Based on Highlands Council Model
 - All Applicable Narrative Portions Retained
 - All Applicable Exhibits Provided – Note: To be replaced with Updated Highlands Council Parcel-Based Exhibits

The Staff RMP Consistency Finding is that Chester Township's Highlands Area Land Use Ordinance is consistent with the RMP.

With respect to the Municipal Petition for Plan Conformance, Module 7, Ms. Swan noted that it:

- Consists of all Petition Supporting Materials: Petitioning Resolution/Ordinance, Self-Assessment Report, List of Current Planning Documents, Highlands Implementation Plan & Schedule
- Chester Submittals Based on Highlands Council Models
 - Resolutions (#1-Preservation Area, #2-Planning Area) Complete
 - Self-Assessment Report Accurate & Complete
 - Requested Planning Documents Submitted to Highlands Council

The Staff RMP Consistency Finding is that Chester Township' Petition is consistent with the RMP.

Ms. Swan stated that the public comment period for Chester Township's Petition for Plan Conformance opened September 30, 2010, and closed October 14, 2010. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Comments were received from:

- Mayor Cogger, Chester Township - Municipal Comment
- Nicholas Tufaro, PP, LLA, RLA
- Erica Sollberger, RLA, President, New Jersey Chapter, ASLA
- Fair Share Housing Center
- New Jersey Highlands Coalition
- New Jersey Farm Bureau

Ms Swan then summarized the public comments received and responses given by Highlands staff for Chester Township Petition for Plan Conformance.

Comment: Chester Township addressed staff concerns regarding the Byrne Apartment affordable housing project (Block 44, Lot 11).

- Response: At the request of the Township of Chester, the Byrne Apartment site has now been removed from the Township's Fair Share Plan, and is no longer proposed. The preparation and submission of a revised Fair Share Plan is now a condition of approval.

Comment: Requests were submitted that the Highlands Area Land Use Ordinances be modified to include Landscape Architects among the professionals listed as required for various types of application reviews.

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- Response: The Highlands Area Land Use Ordinance (for Chester Township and all models) will be updated to include a general statement that any professionals licensed by the State of New Jersey that are specifically permitted to review and provide findings as noted in the Highlands Area Land Use Ordinance may review appropriate applications.

Comment: A number of detailed comments were submitted by the New Jersey Farm Bureau on the Highlands Area Land Use Ordinance in regards to Farming and Agriculture. A detailed response to each comment was provided. Ms. Swan outlined the most relevant response:

- The Ordinance provides an important exclusion for agriculture(see § 2.1.1): “Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of this Ordinance shall not apply to Agricultural or Horticultural Use and Development.”

Comment: A letter was filed (with COAH) by the Fair Share Housing Center objecting to the use of Highlands Council Build-Out results to adjust the Township’s Fair Share Obligation. (Detailed responses were provided separately.)

- Summary Response: These comments specifically relate to matters that are pending before the Appellate Division in litigation filed by Fair Share Housing Center. Chester Township’s Petition should be approved conditioned upon achieving and retaining compliance with the Fair Housing Act. In addition, the response clarifies that the Build-Out Report is based upon the Highlands Act and RMP requirements. Ms Swan clarified that this was covered earlier by Tom Borden in his earlier summary of the latest actions with reference to COAH.

Ms. Swan then summarized the Staff Recommendation for Chester Township’s Petition for Plan Conformance that it be approved with the following conditions:

- Adoption of Ordinance Petitioning for Planning Area
- Adoption of Interim Checklist Ordinance – Development Applications referred to Highlands Council for RMP Consistency Determination prior to local determination of completeness pending adoption of all Master Plan/Ordinance provisions
- Adoption of Completed, Final Environmental Resource Inventory
- Development, Highlands Council Approval, & Adoption of Final Highlands Element & Land Use Ordinance
- Adoption of Updated Zoning Map
- Compliance with Fair Housing Act (COAH Certification)
- Update/Development & Implementation of:
 - Water Use & Conservation Management Plan
 - Stormwater Management Plan (updated only)
 - Habitat Conservation & Management Plan
 - Land Preservation & Stewardship Program
 - Septic System Management/Maintenance Plan

Council Comments

Acting Chairman Schrier asked Ms. Swan to elaborate on what the Highlands Council Staff mean when they say that they work with the towns to get to the stage of petitioning for Plan Conformance. Ms. Swan responded to say that the composition of the Council as having elected

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officials (municipal and county), and members who looks at issues from different viewpoints the Council has always recognized that in order for this program to work and protection to occur that the planning and protection has to be a partnership with the municipalities. Council's staff has always worked to build a relationship of trust with the municipalities. Staff's presentations and visits to municipalities are focused on the municipality itself and its relationship to the Highlands Region. Staff's job is to build those relationships by understanding the municipalities better and to make sure the information that we carefully compile is verified by the municipalities. Ms. Swan further stated that in the end Staff hopes that the municipality has enjoyed a good working relationship with a professional staff that works under the direction of this Council.

Mr. Schrier thanked Ms. Swan for her clarification and reiterated that we work with the municipalities and that has always been the goal of this Council and the Highlands Act.

Ms. Letts asked about clarification on the size of the Lace Factory that was mentioned as an area for redevelopment. Ms. Swan responded to say approximately 5-10 acres. Ms. Letts also asked if the COAH plan was based on the Highlands Municipal Build-Our Report. Ms. Swan verified that it was.

Mr. Francis asked if a center is designated in Chester Township. Ms. Swan responded to say there is no request for center designation and that the infrastructure does not exist in the Township to support a center designation Ms. Swan also added that in reality Chester Borough is the center for Chester Township.

Ms. Carluccio made a motion on the Resolution and Ms. Kovach seconded it. Acting Chairman Schrier opened the public hearing on Chester Township's Petition for public comment on the proposed Resolution.

Public Comments

Helen Heinrich, New Jersey Farmers Bureau - Ms. Heinrich wanted to note that the comments presented to the Council were not personally directed at Chester Township. Ms. Heinrich stated concerns whether the Woodland Management Plan is the same as the Forrest Management Plan. Ms. Heinrich also asked when the maps are posted in the meeting room as she believes they would be helpful for residents. Ms. Swan responded to say a day or two before a Council meeting, but if a member of the public comes in Staff would be happy to assist them and if the maps were not available staff could show them on the computer screen in the meeting room

Deborah Post, Block 33, Lot 4 in Chester Township- Ms. Post stated that her farm is not eligible to participate in clustering as it is not in the Agricultural Resource Area in the Regional Master Plan. Ms. Post further stated that the Highlands Act has affected her land value.

Mr. Schrier noted that the public comments during this Public Hearing should only be on the resolution before the Council.

Andy Drysdale- Mr. Drysdale, an owner of 16.5 acres in Chester Township, asked how did we get to this place and why does Chester Township want to opt-in to this unnecessary Highlands Act. Mr. Drysdale stated under the Faulkner Act that the Mayor of Chester Township has total authority over

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the Township Council. Mr. Drysdale pleaded to not give his rights to larger government and urged people to vote in November.

Mr. Visioli lost connection via telephone conferencing at 11:25am.

Mr. Visioli was reconnected via telephone conferencing at 11:26am.

Monique Purcell, Department of Agriculture – Ms. Purcell wanted to bring an issue to the Council’s attention regarding Comment #5. on Page A-5 of Appendix A regarding municipal exemptions and determinations. Ms. Purcell stated that this has been an issue since the beginning of the Highlands Act implementation. She referred to the process that is used by NJDEP to determine exemptions. Mr. Purcell further stated that there needs to be clarification on how this process will work and feels it should work at the municipal level.

David Shope owns a farm in the Preservation Area. – Mr. Shope suggested that the Council offered Chester Township a COAH bribe for their petition.

David Peifer, Highlands Project Director for the Association of New Jersey Environmental Commissions – Mr. Peifer is in support of the petition for Chester Township. Mr. Peifer further gave a history of work that Chester Township has done in the past and commended them. Mr. Peifer stated that Chester Township is a great partner for the Highlands Council. Mr. Peifer is highly supportive of Chester Township as the first town in Morris County to conform.

Julia Somers, New Jersey Highlands Coalition – Ms. Somers is very excited that Chester Township is moving forward and they are a wonderful model to other communities of good leadership. She commended them for recognizing and protecting their resources e. Ms. Somers further stated the New Jersey Highlands Coalition fully supports Chester Township’s petition.

Bill Cogger, Mayor of Chester Township – Mr. Cogger wanted to recognize Carol Isemann, Municipal Clerk and Administrator; and Dan O’Donnell, Planning Board Chair of Chester Township who were present at the meeting. Mr. Cogger wanted the Council to understand the history of Chester Township and stated that about 21 years ago there was an election that set this course for today. Mr. Cogger acknowledged the leadership of Mayors Ken Caro and Ben Spinelli. Mr. Cogger reported that 45% of Chester Township was preserved because of their leadership and at a minimal cost burden to the township. Mr. Cogger further spoke about the economics of open space in the township and how landowners should be compensated for their lost value. Mr. Cogger stated that every property owner that has preserved their property was for fair market value and there are plans out there that compensate the landowners, but it may not be what the landowners think their property is worth. Mr. Cogger further commented that the business of farming has changed over the years and that municipalities need to recognize that and that legislature does not always need to be past or formalized, if municipalities and work together with their constituents. He gave the example of how Chester Township worked on traffic issues with their agricultural businesses and together solved the problem without resorting to new regulations.

Council Comments

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Mr. Alstede asked what are the advantages and disadvantages of a farm that is an Agricultural Resource Area (ARA) and one that is not. Ms. Swan responded that the ARA was a density mapping and that farms in the ARA were seen as critical to protect because they were part of large contiguous areas in agricultural use. However she pointed out that local communities had their own priorities for preservation and that farms outside of the ARA were eligible for preservation. She did not believe that the SADC would not consider a farm outside of the ARA for preservation as they had their own criteria but said that Ms. Purcell could clarify that. Ms. Purcell indicated agreement that farms outside of the ARA were eligible. Ms. Purcell commented to say that 90% of farms in the Highlands region are captured in ARA mapping and any farm that is out of the ARA does not mean that the protections or the policies of the ARA are different. Mr. Borden added that clustering of residential development was a requirement of the RMP in the ARA.

Mr. Alstede had two issues he wanted to discuss regarding exemptions 1 and 2. Mr. Alstede's first issue was regarding the definition of an 'individual's family member' as it pertains to Exemption number 1. His concern, brought to the Council on previous occasions was whether a family LLC was included in this definition. Further he questioned whether an LLC owned by two families could be included in the definition. He warned that this will become a problem at some future date if not addressed appropriately. He recognized that this issue needs to be addressed by NJDEP and that the Department of Agriculture needs to agree to the determination. His second comment was to stress that as we delegate exemptions to municipalities there is no reason why the municipality cannot make decisions on exemptions 1 and 2.

Mr. Francis noticed that the Highlands Council was going to compile a training manual and he felt this would be a powerful tool to expedite the training for municipalities.

Acting Chairman Schrier then asked if Council members had any additional comments on Chester Township's Petition and seeing none he asked for a roll call vote on the Resolution.

All members present and on the teleconference voted on the Resolution. The Resolution was APPROVED 9-0.

At this time commemorative photos were taken as the Acting Chair presented a framed certificate regarding the approval of the Plan Conformance Petition to Mayor Cogger.

Mr. Visioli left the meeting via teleconferencing at 11:57am.

Mr. Schrier made note that the next Highlands Council meeting is rescheduled for Friday, November 19, 2010 at 1:00 pm, due to the League of Municipalities conference. Mr. Schrier stated that the final meeting of 2010 is scheduled for December 16, 2010 at 4:00 pm, which, as Council Member Janice Kovach reminded him, will be the Council's 6th anniversary. There was then discussion amongst Council members about the attendance of its membership. Mr. Schrier asked Executive Assistant, Ms. Tagliareni, to prepare a report which would show the attendance of the Council members since the first meeting on December 16, 2004.

Consideration of Resolution – Approval of Fiscal Year 2011 General Operating Budget

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Mr. Schrier turned the meeting over to Mr. Cogger to discuss the Resolution of the Fiscal Year 2011 Operating Budget. Mr. Cogger reported that Ms. Kovach and he met with Highlands staff to review and discuss the budget for FY2011. Mr. Cogger made note that the budget was reduced by 20% and that Highlands staff is down one full-time and one part-time employee. The areas of increased expenditures in terms of percentages, has to do with the six-year old servers and the importance of replacing the servers which was clear at the meeting when it was seen that the movie of Chester was not corrected due to system failure because of the size of GIS files and the capacity of the servers. Mr. Cogger asked Ms. Swan to give a summary of her discussions with the Governor's Authorities Unit regarding the budget. Ms. Swan noted that the Highlands Council is an authority so staff works closely with the Governor's Authorities Unit as well as the Department of Treasury, Office on Management and Budget (OMB). It was agreed that this 20% reduction would just be for FY2011 as it could not be sustained and was being accomplished through a one time transfer of funds from the Regional Master Plan Budget. Staff shared all information with the Governor's Authorities Unit and worked together over the past two weeks to make sure that they were satisfied with the Highlands FY2011 budget. Ms. Swan reported that the Governor's Authorities Unit was satisfied that all their questions had been adequately responded to in advance of the Treasurer recommending action on the Budget.

Mr. Cogger made a motion on the Resolution. Ms. Letts seconded it.

Ms. Swan confirmed for the Council that staff does have requests in for the two open positions, one full time and one part time.

Public Comments

David Shope – Mr. Shope noted that there are no details in the budget. Mr. Shope opined that the Council should not approve it.

Deborah Post, Chester Township property. Ms. Post addressed her comments to the Governor's office. Ms. Post highly recommends that the TDR Program and TDR Bank be moved to Trenton, along with the Highlands budget money.

Andy Drysdale – Mr. Drysdale commented that the budget is outrageous and unnecessary.

Hank Klumpp – Mr. Klumpp questioned how the monies go back and forth. Mr. Klumpp questioned the details of the budget regarding salaries, and a seven hour a day work week. He questioned whether staff salaries had been frozen.

The Acting Chair indicated that Ms. Swan could respond. Ms. Swan reported that the Staff salaries have been frozen since 2006. Ms. Swan reported that the Highlands staff is non-union and that they were subject to a 1.5% payment towards benefits which had been negotiated in Trenton with the State unions; however, the cost of living increases and raise that the union staff received at that time and subsequent step increases for longevity were not made available to Highlands Council staff. She further explained that the Highlands Council staff were not obliged to take furlough days but that the Council considered the matter and followed State guidelines in recognition of the fiscal climate. Lastly, she noted that Highlands Council staff are at-will employees and as salaried staff they work to

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get their work done even beyond a regular 7 hour a day and that there are staff that routinely work on weekends.

All members present voted on the Resolution. Mr. Vetrano was absent and Mr. Visioli left the meeting via telephone-conferencing at 11:57am. The Resolution was APPROVED 9-0.

Public Comment

David Shope – Mr. Shope commented on what Mr. Cogger said earlier regarding preservation of lands. Mr. Shope says it is not as easy as it sounds. Mr. Shope said there has been a change of language in newspaper articles from ‘just compensation’ to ‘some compensation’. Mr. Shope expressed his dissatisfaction regarding the Highland Act, staff salaries, NJDEP and Highlands Council. Mr. Shope commented that it is a convenient myth that the Highlands Region is so precious and benefits the people. Shope then handed excerpts from the NJ Highlands Act, Value Impact Summary and Committee Meeting of March 30, 2004.

Mr. Schrier observed that the public may comment on anything they want, however, the lack of titles when addressing members of the Council and staff by the public indicates a lack common courtesy.

Deborah Post – Ms. Post expressed her concerns about her land equity value and the ARA. Ms. Post also commented on Mr. Cogger’s discussion on Chester Township’s history and expressed her dissatisfaction of certain public officials and the dealings she has had with Chester Township elected officials and staff. Ms. Post continued to express her objection to the Highlands Act and the effects on her Chester Township property.

Andy Drysdale – Mr. Drysdale feels that it is a waste of time to talk to this Council and expressed his concern and objection of the Highlands Act.

Mr. Francis left the meeting at 12:39pm.

Julia Somers – Ms. Somers was pleased to hear about the submission of Petitions from Phillipsburg and Alpha. She recommended that when a community comes in for a Highlands Center designation there be consideration of a TDR receiving area. Ms. Somers complimented Staff on the amazing maps and said that it should be required that municipal officials come in to review them. Ms. Somers requested that Council includes Highlands Coalition on any meeting which pertains to the language adjustment of forest stewardship. Ms. Somers also commented on exemptions 1 and 2 and suggests as towns conform it makes sense to go to municipalities with the Council overseeing and calling up if necessary. Ms. Somers added that NJDEP is talking about ‘one-stop shopping’ in Trenton and the Council needs to remain extremely alert. Ms. Somers concluded that Highlands staff are not thanked often enough and that they work extremely hard.

Mr. Francis returned to the meeting at 12:40pm.

Hank Klumpp – Mr. Klumpp made note to the Council that people are hurting because of the Highlands Act.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF OCTOBER 21, 2010

Mr. Schrier made a comment relevant to what Mr. Drysdale and Mr. Klumpp have said that the public is addressing a sympathetic Council regarding landowner equity. Mr. Schrier stated that he has been involved in conservation since 1999. Mr. Schrier commented that important issues such as water supply must take precedence. Mr. Schrier further commented that preservation in New Jersey Highlands was endorsed in 1906 for the very first time.

Ms. Swan asked that she be allowed to elaborate on her response to Mr. Alstede's question regarding the ARA as it was now clear as to the nature of the question. She stated that clustering is mandatory in the ARA and discretionary elsewhere, so it can occur but in either case is limited in density by the nitrate dilution model.

Mr. Cogger stated that he would like the comments made by Deborah Post regarding Ben Spinelli to be forwarded to Mr. Spinelli. Ms. Swan commented that the recording of the meeting are posted on the website a day after the meeting, so with Council's permission Ms. Swan will forward that portion of the recording for Mr. Spinelli's review. This approach was approved.

Mr. Alstede requested that the October 2011 meeting be scheduled at 1:00pm instead of 10:00am. The schedule would be presented to the Council before the end of the year and so the members could discuss times of meetings at that point.

Mr. Holtaway made a motion to adjourn the meeting. Ms. Kovach seconded it. The meeting was adjourned at 12:53pm.

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: 11/19/10

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant

**Vote of the Approval of
These Minutes**

	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede			✓			
Councilmember Carluccio			✓			
Councilmember Cogger			✓			
Councilmember Francis			✓			
Councilmember Holtaway			✓			
Councilmember Kovach		✓	✓			
Councilmember Letts	✓		✓			
Councilmember Richko			✓			
Councilmember Vetrano						✓
Councilmember Visioli			✓			
Councilmember Schrier			✓			

PUBLIC COMMENTS

NJDEP Response: To Comment # 666 (Page 457) as above:

*“The Highlands Act consolidates aspects of several existing programs, strengthens their protections, and adds **some** unique protection provisions as well...”*

H&H Rebuttal: Upon review it is evident that the Department does not have a credible response to Comment #666. The assertion that the Act “adds some unique protections provisions” rings hollow. Given the scope and context of the Act and Act Rules together with the resources available to the NJDEP, it is incumbent upon NJDEP to come up with something better than “some unique protection provisions” as support for the Act and Act Rules as not being redundant in the context of the prior existing rules and regulations. As NJDEP has not produced the said examples and proofs it is left to the Reader to garner that the Act and Act Rules are wholly or largely redundant.

Initially, within the H&H February 14, 2006 report under the heading:

“Economic Impact”

H&H Comment:

The net result of transferring development potential and associated economic impact value from the Preservation District to areas outside the core is an effective transfer of property worth from owners within the Preservation District to other private property owners. The order of magnitude for transferred value from one group of private individuals to another is demonstrated by the following model:

The Act Rules cite several different development and buildout scenarios as probable occurrence with the Preservation District. These include (@ Page 217) that the potential dwelling units within the PD (at buildout) total 215,421 units (say 215,000).

H&H independent analysis (attached) supports that the 2006 median home value within the Highlands region is reasonably supported @ \$373,000. The impact that the Act-Rules have on property owners within the PD is estimated as follows:

$$215,000 \text{ units } @ \$373,000/\text{unit} = \$80,195,000,000.$$

This calculation demonstrates an \$80 Billion loss in ratable base for Highlands PD municipalities.

Further, the above depiction does not account for other forms of development, e.g. commercial and industrial. It also does not make a distinction among dwelling units as may be developed with other than SFR homes.

The “average economic multiplier” for the US is cited within the Act-Rules (@ Page 208) as being Factor = 2X. Therefore, the cost to local economies resulting from the failure to construct and sell 215,000 dwelling units is estimated as follows:

$$\$80.195\text{Billion} * \text{Factor (2X)} = \$160 \text{ Billion Dollars}$$

Given the methodology customarily cited within the Act-Rules, the loss in sales and realty transfer tax together with the lost jobs, and jobs spending multipliers results in the conclusion that the Act-Rules will have an astronomical impact on the economy and the ratable bases of the PD communities.

However, this statement is not necessarily true based on the same criticisms of the Act-Rules presentation of cost/benefit analysis. The problem must be evaluated on a micro and macro basis.

Therefore, it may be stated that Statewide, and over a period of time, the loss of ratable base, and the gross affects on the economy are likely to be negligible. The Act and Act-Rules don't prevent development, the same are just redistributed.

The absorption of the theorized dwelling units will be delayed due to the increased regulation and the time necessary to facilitate increased density potentials within “appropriate” areas for development but the gross demand for housing will eventually be met.

What can be stated with certainty is that whatever economic benefit is received by areas outside the Preservation District will come at the expense of the property owners and the local economies within the PD.

NJDEP Response: To Comment # 719 (Page 492) as above:

In the interests of clarity, the H&H Rebuttal comments are inserted in the Response text as “Blue Bold”.

“For the reasons set forth at length in the economic impact analysis, the Department believes that the long-term statewide impact of the rules being readopted will be significantly positive rather than negligible or neutral.”

When making an argument or asserting a claim, it is inappropriate to assert that the argument or claim is, of itself, sufficiently self evident that it overcomes objection. Comment #719 challenges the Department’s claims, assertions, and purported facts. It is therefore “no argument or explanation” to say, ipse dixit that the argument or purported facts are either self evident or correct.

Committee Meeting

of

SENATE ENVIRONMENT COMMITTEE
ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE

SENATE BILL No. 1
and
ASSEMBLY BILL No. 2635

(The "Highlands Water Protection and Planning Act")

LOCATION: Skylands Manor
Ringwood State Park
Ringwood, New Jersey

DATE: March 30, 2004
7:00 p.m.

MEMBERS OF COMMITTEES PRESENT:

Senator Bob Smith, Co-Chair
Assemblyman John F. McKeon, Co-Chair
Assemblyman Michael J. Panter, Co-Vice Chair
Senator Henry P. McNamara
Assemblyman Robert M. Gordon
Assemblyman Reed Gusciora
Assemblyman Louis M. Manzo
Assemblyman Guy R. Gregg
Assemblyman John E. Rooney



ALSO PRESENT:

Judith L. Horowitz
Carrie Anne Calvo-Hahn
Lucinda Tiajoloff
*Office of Legislative Services
Committee Aides*

Kevil Duhon
*Senate Majority
Committee Aide*
David Eber
Assembly Majority

Thea M. Sheridan
*Assembly Republican
Committee Aide*

*Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey*

What I was struck by today is, that in a lot of ways, I always think that we, kind of, live the same lives, we're just in different places. I heard people -- "Yeah, I was on the zoning board, but the new administration kicked me out because I was pro-development." Someone else got up and said, "Yeah, I'm the Republican, and we're with that group." And, you know, it's the same, regardless of whatever town or city your in, anywhere in the State of New Jersey.

The difference is that those that aren't within what we've designated to be the core -- and make mistakes -- like in my own community, in West Orange, where I'm the Mayor-- Our mistakes are translated, maybe, into a loss of the quality of life, maybe more traffic, air not as clean as it could be, probably extra taxes because of the school children that come in. And there's permutations of the debate over condos -- they're not going to have school children, we'll make money, whatever it might be. But if we make a mistake, that's where the transgression goes to, our own individual quality of life, ergo home rule.

If there are mistakes made by local government, relative to the core that's remaining, the entire State of New Jersey will suffer, not to mention Pennsylvania, New York. This implication goes beyond even New Jersey. And this is why, in a way, I pray for wisdom for all of us, as we go through this evaluative process, to make certain that we do the right thing, because we can't afford not to.

And with that, we look forward to working hard together. And thank you all, again.

— I'm going to turn it over to Senator Smith. (applause)

SENATOR SMITH: Thank you, Chairman.

The Assembly Environment Committee and Chairman McKeon, have worked long and hard on this. And we're going to be working longer and harder. We've got a pretty hectic schedule ahead of this. But your comments tonight make all the difference in the world.

If there was one lesson tonight, it was the voice in the background from Tom Cruise, "Show me the money." (laughter) And Chairman McKeon and I pledge to you that we will show you the money. We're currently working with the Governor's Office to put together the dedicated and guaranteed source of funding so that the Highlands, which is making a sacrifice for the rest of the state, is properly compensated. We will show you the money.

And let us not lose track of the fact that this is a bill about water. It's about a lot of things, but it's the water supply for the future of the State of New Jersey. We can't have-- Are there any builders left in the room? There will be no residential housing if there's not water. There will be no building, no factories, no anything if there isn't a good, clean, sufficient water supply.

If you look at the Task Force's report, it indicated that the cost of water treatment is estimated to increase \$30 billion if we don't protect this water supply. What more do we need to know? How many times do we have to be hit in the side of the head with a 2x4? This is one of our last chances to keep New Jersey's future bright.

Now, some comments that you need to know: If you would like to supplement our record or send in comments that you'd like us to consider, please take this address: Assembly and Senate Environment Committees, State House Annex, P.O. Box--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Wait a minute.