

**MINUTES**

**NEW JERSEY HIGHLANDS COUNCIL  
MEETING OF JULY 27, 2006**

**PRESENT:**

JOHN WEINGART	)	CHAIRMAN
KURT ALSTEDE	)	COUNCIL MEMBERS
ELIZABETH CALABRESE	)	
TRACY CARLUCCIO	)	
TIM DILLINGHAM	)	
JANICE KOVACH	)	
MIMI LETTS	)	
JACK SCHRIER	)	
DEBBIE PASQUARELLI	)	
GLEN VETRANO	)	

**ABSENT:**

MIKAEL SALOVAARA  
SCOTT WHITENACK

The following are the minutes from the New Jersey Highlands Council meeting which was held at 100 North Road, Chester, New Jersey on July 27, 2006 at 10:00 a.m.

**CALL TO ORDER:**

The Chairman of the Council, Mr. John Weingart, called the 31<sup>st</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:15 a.m.

**ROLL CALL:** The members of the Council introduced themselves.

**PLEDGE OF ALLEGIANCE** was then recited.

**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 of circulation throughout the State.

## **MINUTES OF JUNE 22, 2006:**

Mr. Schrier motioned to approve, Ms. Letts seconded. Ms. Pasquarelli asked that her comments on page 2, paragraphs 5 and 6, and page 7, paragraph 7 be revised for clarification and she read the proposed revised paragraphs aloud to the Council. Mr. Schrier and Ms. Letts accepted the changes, Mr. Kurt Alstede, Ms. Elizabeth Calabrese, and Mr. Tim Dillingham abstained, therefore a quorum could not be met, and the minutes on June 22, 2006 will be voted upon at the next Council meeting.

## **CHAIRMAN'S REPORT:**

Mr. Weingart reported that the materials for the meeting were available at the receptionist table. He noted that the month of July has been an unusual month, with the State being shutdown for budget negotiations and advised there were several power outages at the Chester office. He commended the staff for continuing working through the shutdown.

Mr. Weingart noted that the allocation for the Council in the approved fiscal year 2006 budget would be adequate for the Council to continue to do its work over the next year. He further advised that there were still three vacancies on the Council and that he hoped the nominations will occur soon.

Mr. Jack Schrier noted that a person seated in the front row of the room was holding a sign which he found offensive and requested that the gentleman remove it which the gentleman promptly did. Mr. Di Pirro noted that the sign had a picture of the Nazi Swastika on it.

## **EXECUTIVE DIRECTOR'S REPORT:**

Mr. Di Pirro reported that Anthony Cortese was now permanent in the position of Regional Planner, and would be providing assistance to the Highlands Council's efforts for economic development and welcomed him to the staff. Mr. Di Pirro also reported that the Council has a person who has accepted the position for Governmental Affairs and Operations and they will be in place by the end of August.

Mr. Di Pirro additionally commended staff for their efforts during the government shutdown because they wanted to continue working uninterrupted and did so. He also said that the DEP has agreed to allow 5 full time employees to work with staff to aid with development of the Regional Master Plan given that the Council is not able to hire as many as staff as necessary.

Mr. Di Pirro advised that the Council's website gets thousands of hits per month with almost 50,000 in June alone. He said most visitors to the site are viewing the technical documents which shows that the public is plugged in and interested. The preliminary technical releases have been on groundwater capacity, forest integrity, redevelopment potential and financial impact assessment. These data layers are being shared with other departments as well for their input.

Mr. Di Pirro reported that the Garden State Preservation Trust has a sunset provision in 2009, and that the Council has gone on record many times to note that the fund must stay in place for the future of the Highlands. The Governor will be receiving information and it is hoped that this important fund will be reinstated.

Ms. Mimi Letts commended Mr. Di Pirro and the staff for continuing to work during the budget shutdown.

## **COMMITTEE REPORTS:**

Mr. Weingart, Chair of the Personnel Committee, noted that the **Plan Development Committee** could not meet because the power outage caused the public notice of the meeting to fail.

## **PRESENTATION ON PUBLIC RELEASE OF PRELIMINARY TECHNICAL INFORMATION FOR THE REGIONAL MASTER PLAN:**

Mr. Balzano said that a great volume of information for the Regional Master Plan will be analyzed for policy decisions by the Highlands Council. The primary focus is on the protection of water supply and the results of the public release of technical documents reflects resource constraints and analysis on drinking water supply, as well as how to protect the water supply for future generations. Also being considered is how to maintain ecological integrity, because human need often exceeds ecological function, and the intent of the Regional Master Plan is to find a balance which would ultimately achieve sustainability of the Highlands resources.

He noted the Council will be given information to decide how much water should be designated for future use. Mr. Balzano noted that as we pull water from streams it depletes the system for future generations. He introduced Mr. Otto Zapecza from the United States Geological Survey (USGS).

Mr. Zapecza presented a power point demonstration which demonstrated the objective of identifying the capacity of Highlands watersheds and answering the questions such as how much water is continually being supplied to the groundwater system how and much is discharging.

Mr. Zapecza noted that groundwater is the primary drinking water source for the communities in the Highlands Region and it is the critical component of the base flow of streams. There are 183 HUC14 drainage basins and low flow statistics have been analyzed looking at the physical characteristics of the Region as well as the water use data.

A stream's base flow is groundwater discharge and well withdraws intercept part of base flow to streams. He showed a slide which demonstrated 80 years of base flow variability at the Pequest reservoir. He said the base-flow recurrence interval method is done on 2, 5, 10, 25, and 50 year intervals.

The low flow safety margin is an ecologically based approach which protects streams by looking at the lowest traditional flow over seven consecutive days in a ten year period.

Mr. Balzano noted that from a planning perspective, you look at the worst case scenario and that is why we look at low flow margin when making determinations.

Mr. Zapecza said there are surface water gauging stations that are continuous record stations which measure the amount of water every fifteen minutes. There are also 96 low-flow partial record stations throughout the Highlands Region. He noted that the USGS compiles the records from all the recording stations into reports.

Mr. Balzano said a big effort has gone into taking a multitude of complex pieces of data and reducing it into something easily understood, ultimately relating it into a number which will be a designation and therefore implementable at the local level.

Mr. Zapecza said that the percentage of base flow statistic will be determined by the Council and from that subtract usage.

Mr. Balzano said it is desired that the plan be as informed as much as possible, and that staff has worked very hard to fill in data gaps.

Ms. Letts asked if the Council could examine aquifer levels to inform the plan. Mr. Dan VanAbs said there are some areas in the Highlands Region that lack the data she mentioned. Mr. Balzano said the plan will present regional standards. It will be necessary to work with counties and municipalities to make any necessary adjustments based on updated information.

Mr. Weingart thanked Mr. Zapecza for his presentation and asked as the Council moves into policy decisions, to what extent it will have precedence. Mr. Balzano said the Highlands Act gives very broad authority to the Council to make determinations as to the needs in the Highlands Region. The statutory authority for granting of allocation of water is up to the DEP, nothing will change that authority, however this will inform local land use zoning decisions. Mr. Balzano noted it creates the bridge between state policy for resource conservation and local zoning.

Ms. Tracy Carluccio said she understood that when Mr. Tom Borden mentioned the DEP rules state harmonization is what we are reaching for, that down the road the Council may be looking at rulemaking. Mr. Di Pirro replied that the Council's development of good science will help further inform the State plan and the Council hopes to be a part of that process.

Mr. Balzano said the policy decisions could become too overwhelming for the Council if it were to consider all possible outcomes. Mr. Dillingham said the Council needs to discuss broader policy decisions first, but that some discussion on the more complex issues should be taken on at committee meetings.

Mr. Weingart asked Mr. Balzano to introduce the next presentation. Mr. Balzano noted it would be given by Ms. Christine Danis and Ms. Megan Lang and would illustrate methods and approaches for regional growth areas. Ms. Danis is the Council's Principal Planner and Ms. Lang is a Regional Planner.

Ms. Danis and Ms. Lang gave a power point demonstration. Ms. Danis noted that staff has examined where existing growth is and where future growth will be. The Regional Master Plan will include the numerous components: Resource Assessment, Smart Growth (includes Transportation), Coordination and Consistency, Local Participation, and Financial.

The Smart Growth component will include methods to examine resource protection needs, infrastructure constraints, and opportunities for growth in the Highlands Region. The regional development and design technical reports will include identification of potential growth areas and redevelopment areas identified from the land use capability map. Redevelopment may occur in both the Planning Area and the Preservation Area.

Mr. Alstede asked for clarification about growth in Planning Area and asked whether it wasn't the Legislature's directive and not a Council policy decision which indicates growth areas. Mr. Di Pirro and Mr. Weingart commented that the Council has made it a policy that more flexibility should be given at the local level when it comes to growth.

Ms. Danis continued and noted that some data sources analyzed were existing development, transportation and transit village locations, as well as existing utility infrastructure and capacity. Dissymmetric mapping was also conducted to determine where the population is actually located in an area in order to provide a layer of mapping that more accurately reflects the actual land area in a given town where people live.

Ms. Megan Lang next gave a possible approach of what a growth area would be. She showed the individual layers of data one by one illustrating what factors are considered when analyzing potential growth and redevelopment areas. She noted that next steps were to finalize policy criteria for identifying the redevelopment

and growth areas, as well as defining the growth areas. Discussion of growth areas will continue during the plan conformance process with local input helping to refine the extent of these areas. Ms. Lang noted it will also provide the framework for those localities that wish to pursue any adjustments and revisions to the Regional Master Plan.

Mr. Balzano said that the work that USGS is doing will provide another layer for evaluation and examination and will further inform the plan.

Mr. Schrier asked after an area is determined not to have sufficient water available to support growth, might it be said that there could be ways to bring water in. Mr. Balzano said he was sure that the plan will live on and that the Highlands Council has repeatedly stated that there will be next iterations of the plan. Mr. Dillingham said water lines can be brought in and one point is to define growth areas and define them by exclusions.

Mr. Weingart thanked them both and turned the meeting to the first resolution for consideration.

**CONSIDERATION OF RESOLUTION REGARDING GRANTS TO COUNTIES AND MUNICIPALITIES (voting matter with public comment):**

Mr. Balzano noted an application was submitted from Lebanon Borough for assistance with its third round COAH obligations. He noted the town did not have previous substantive certification, and the planning assistance grant was for the amount of \$12,500 and that approval was recommended.

Ms. Letts made a motion to approve, Mr. Glen Vetrano seconded, all members were in favor, APPROVED.

**CONSIDERATION OF RESOLUTION DESIGNATING ETHICS LIAISON OFFICER (voting matter with public comment):**

Mr. Weingart noted the second resolution for consideration dealt with the designation of an Ethics Officer. At present Mr. Di Pirro has served in this capacity, but it has been suggested that we appoint staff attorney Ms. Kim Kaiser. Ms. Carluccio motioned to approve, Ms. Kovach seconded, all members were in favor, APPROVED.

Mr. Weingart then opened a public comment period.

**PUBLIC COMMENT PERIOD:**

Matt Sprung, Randolph Township on behalf of the Builders Association. Mr. Sprung noted what a popular area New Jersey is by virtue of its location. The internet and the ease of access to information does have impacts on towns and Main Street NJ. He noted the need to plan for future generations in New Jersey. Mr. Brung noted that planning is crucial to prevent this State from becoming a place in the future where people used to be, but have now moved on to seek better, more sensible locations to live. He thanked the members of the Council who openly debate issues because he is concerned as a builder where the line is drawn. He said we have to look realistically at growth. Mr. Brung provided his comments in writing to the Council.

Eric Stiles, Bernardsville, Audubon Society. Mr. Stiles noted he came to comment on water studies, and said people choose to live in an area based on the quality of the area. He mentioned that the low flow in September is already below the recommended health level and he asked that the Council find the level necessary to protect ecological health. There should be a substantive discussion at the committee level of what the best approximation for this level should be. There should also be a benchmark for middle ground indicated. He provided the Council with a hand out on nature-related tourism in New Jersey and said it is a \$2.25 billion dollar industry.

Mayor Hudson, Borough of Hopatcong, thanked Mr. Ross MacDonald for coming to their recent meeting and also Dante Di Pirro for attending in the past. He mentioned that there was a letter today to Eileen Swan and Mr. Weingart which addresses part of his concern -- holes within the state plan like the Highlands, Pinelands and Meadowlands. He asked who has jurisdiction there. Mayor Hudson also referred to the presentation by Christine Danis and said that he finds it distressing in that it seemed to represent if you could redesign your town, how to do it. He also wanted to know who comes up with the plan for his planning area. Mayor Hudson said he believes lines were drawn according to features.

Maurice Micario, Oakland, with property in Kinnelon, on Denise Drive. He said his concern is that there is no appeal process and that he lives in a development with houses on top of houses. There needs to be an appeal process where residents can get a definitive answer supported by facts as to why they can't build on their property.

Deborah Post, Chester. As to eco- and agri-tourism, Ms. Post said that over 30 years ago her mother opened their orchard for pick your own apples. She said she knows how much it earns and how much debt her peers have incurred trying to support it. Ms. Post said she doesn't want to hear that hiking trails and agri-tourism are lucrative. Ms. Post said she has analyzed the minor impact by the Highlands Act published in the Star Ledger which tells the public no harm has been done to ratables as a result of the Act. She said she knows that farmers have lost plenty. She provided her comments in writing and read them aloud to the Council and public.

Julia Somers, Highlands Coalition. She complimented the Council and staff on the technical data. Ms. Somers stated she is a watershed person and referred to the stress map where HUC14s are stressed and noted that above them in the same watersheds, they do not appear to be stressed. She urged the Council to consider any HUC14 downstream that is stressed to also consider the HUC14s above them because it will really cause a problem for the already stressed HUC14s.

David Shope, Long Valley. Mr. Shope said he was dismayed by Mr. Schrier's reaction to the sign held by the man in the front row. Mr. Vetrano asked to comment, because he believes there is no need for mean spirited behavior. He added that there is nothing that will be accomplished through negative attitudes. Mr. Shope said he thinks the Act is mean spirited. He also said he thinks the presentation today showed the Highlands as an island. Mr. Shope referred to the cost of water being laid on the backs of the landowners in the Highlands.

Robert Frey, Pohatcong Township, founder of Pohatcong Watershed. Mr. Frey read his comments aloud to the Council and provided them in writing and requested that they be attached as part of the minutes.

Andy Drysdale, 32 E. Fox Chase Road, Chester Township. He said he had an incident a week ago in rush hour traffic, traveling west on Route 24 also known as Route 510 near Colby Farm Road where a snapping turtle was in the road. He realized the turtle was leaving the planning area for the preservation area. Traffic backed up quite a distance. He noted that the turtle found its way from one area to another without the DEP or any regulations. Mr. Drysdale said that wetlands 300 foot wide buffers are too large and that costs to taxpayers continue to increase and that residents have just additionally suffered from the sales tax increase. He provided his comments in writing.

Rick Henson, Califon area. Mr. Henson said hello to each of the Council members and advised that the Act has wrecked his retirement and asked them if they have a retirement fund. He said he felt that the Act is about segregation as to conservation, not water. He said farmers have lived for generations in the region and should be paid for their losses. He asked how to obtain the land and compensate the farmers because no one is happy, especially the farmers.

Bob Shander, Pohatcong Township. He said the major problem is the lack of compensation because the land owners should be compensated. Mr. Shander suggested that the Council go back to the Legislature and suggest the real estate transfer fee and a water tax.

Mr. Shope interjected that the public never had a chance to comment on the resolutions. Mr. Weingart apologized to the public for the oversight, and offered the opportunity for the public to give any comments they had.

Mr. Frey commented as to the Ethics Liaison resolution and suggested the Ethics Officer should investigate the ethics of the Highlands Act.

Mr. Alstede asked about project status of the Regional Master Plan and wanted to know where the economic component was. Mr. Balzano said it was at the end under Financial Analysis. Mr. Alstede noted that a letter was received from the DEP about properties that have been exempted. It states that owners should submit deed restrictions which concerns him. He asks who will pay for this, because in his opinion the State is forcing them to do it, and so the State should pay. Mr. Alstede said it is undesirable whether it is ordered by Executive Order or not. Mr. Di Pirro said it is used as a means of identifying someone who is going to purchase a property and it explains the restrictions on the property. The deed restriction puts them on notice as a purchaser.

Mr. Alstede asked whether the Council will need a policy to address this issue, and Mr. Di Pirro said he will get more information in order to report back to the Council.

At that time, Mr. Tom Borden arrived at the meeting from another meeting in Trenton. Mr. Borden said the DEP is requiring deed restrictions in response to a lawsuit. He noted that once the DEP issued an exemption, it should be put in deed. Mr. Alstede noted it is very tricky, because it adds another layer and he doesn't believe it is supposed to complicate matters.

Ms. Pasquarelli asked if the committees reviewed the two letters that were in the meeting packets and Mr. Di Pirro replied they were drafted and reviewed by the Chairman and that the Office of Smart Growth was put on notice that policy decisions are going to be made. Mr. Pasquarelli said she hopes that in the future when letters about subjects such as policy decisions go out, that she would like to see them right away rather than allow a delay to the next Council meeting. She asked if there has been any response to the letters, and Mr. Borden replied that there was a meeting held the day before and that was the subject.

Mr. Weingart then congratulated Ms. Kovach on becoming the new Acting Director of the Division on Women at the Department of Community Affairs and noted that, although she will resign from the Clinton Township Council, she will remain on the Highlands Council.

Mr. Di Pirro said that new purchasers of land may not have the same rights as people who are grandfathered. In terms of funding, the Council has suggested mechanisms for funding preservation.

Mr. Vetrano commented as to memorandum of understanding with State agencies and said that the issue was addressed in Trenton a long time ago but it has never been readdressed since. He added that if the MOUs are not ironed out ahead of time, resistance will likely occur.

Mr. Di Pirro said those discussions on MOUs have not ended and that there have been some substantial changes. One positive is that some of the missing Council members are now located in Trenton. He advised that county plans have little control over municipal zoning, and that discussions have gone on and gotten into the very specifics. He said we have been encouraging staff in Trenton as to how our good science should inform the State Plan and we understand the need to do this.

Mr. Alstede asked if Mr. Di Pirro was the Legislative liaison and Mr. Di Pirro replied he was. Mr. Alstede said he thinks the Council needs a meeting with the Governor. Mr. Di Pirro noted that over the next 60 days the process for which the Council and staff will follow to make sure the funds are in place for Highlands will be decided. He added that the administration has marked this as the time to determine how to achieve this. Mr. Alstede said he still believes the human element and the opportunity to sit with the Governor, even if it is just for 20 minutes, is necessary. Ms. Pasquarelli agreed, and noted that now that the budget concerns are settled, she thinks the Council should not hesitate.

Mr. Weingart noted a meeting with the Governor would have to be held in public or convened with less than a quorum of Council members.

Mr. Dillingham said he agrees with Mr. Alstede and thought it would not be a bad idea to speak to him. He believes the Council needs to nail down the things that ought to be in the conversation with him ahead of time.

Mr. Weingart noted that Commissioner Lisa Jackson has been very accessible to the Council and staff, and that she could provide a means for informing the Governor as well.

No further comments were received from the public.

**ADJOURN:**

Ms. Kovach motioned to adjourn, Mr. Dillingham seconded, all were in favor, and the meeting ADJOURNED at 1:35 p.m.