

**MINUTES**

**NEW JERSEY HIGHLANDS COUNCIL  
MEETING OF APRIL 20, 2006**

**PRESENT:**

JOHN WEINGART ) CHAIRMAN  
KURT ALSTED )  
TRACY CARLUCCIO ) COUNCIL MEMBERS  
TIM DILLINGHAM )  
JANICE KOVACH )  
MIMI LETTS )  
DEBBIE PASQUARELLI )  
MIKAEL SALOVAARA )  
JACK SCHRIER )  
GLEN VETRANO )  
SCOTT WHITENACK )

**ABSENT:**

ELIZABETH CALABRESE )  
LOIS CUCCINELLO )  
BEN SPINELLI )

The following are the minutes from the New Jersey Highlands Council meeting which was held at 100 North Road, Chester, New Jersey on April 20, 2006 at 4:00 p.m.

**CALL TO ORDER:**

The Chairman of the Council, Mr. John Weingart, called the twenty-seventh meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:10 p.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 APRIL 6, 2006:**

Mr. Weingart noted that one change should be made to the comment by Steve Shaw on page 5, paragraph six, the last word of the paragraph should be “voidable.” Mr. Schrier made a motion to approve with the suggested revision, Ms. Mimi Letts seconded, all others were in favor, APPROVED.

## **CHAIRMAN’S REPORT:**

Mr. Weingart reported that the featured guest for the meeting had to cancel. Mr. Stephen Dilts, Deputy Commissioner of the Department of Transportation, contacted the Chairman to apologize that he was called to a meeting at the Governor’s office and could not attend.

Mr. Weingart noted that the Highlands Council now has three members who have left the Council and accepted other positions, the latest being Mr. Ben Spinelli, who is now working as counsel at the Office of Smart Growth. Mr. Weingart reminded that Ms. Lois Cuccinello is also leaving in June to take the position of Assistant Commissioner at the Department of Labor.

Mr. Weingart advised that the Governor’s office intends to obtain the three nominations for vacant Highlands Council seats before summer. He noted that according to statute any affirmative action taken by the Council requires 8 affirmative votes regardless of how many seats are vacant on the Council. Mr. Weingart asked if any members had reports.

Ms. Janice Kovach advised that she would be participating in the *Main Street New Jersey* program which is holding events on April 25<sup>th</sup> and 26<sup>th</sup>, and giving a presentation on May 9<sup>th</sup> in Chester Borough. She invited all Council members and anyone interested to attend to learn about the *Main Street New Jersey* program.

Since no other members had reports, Mr. Weingart asked Mr. Dante Di Pirro to give the Executive Director’s report.

## **EXECUTIVE DIRECTOR’S REPORT:**

Mr. Di Pirro reported that the Personnel Committee finalized job descriptions for staff openings, which have been posted on the internet and advertised in several relevant newspapers. He noted there have been 52 applications filed to date and more are expected to be submitted.

Mr. Di Pirro advised that the members’ packets contained a list of all who have applied and which position they applied for. Where the position is left blank, the applicant did not specify which position they were applying for. He noted that the Council’s Human Resource Director has begun contacting applicants to obtain missing information and will finalize the list to begin interviewing applicants expeditiously. The staff will report status and outcome of interviews to the Personnel Committee, and then present to the full Council.

Mr. Di Pirro advised that staff has met and also the Land Preservation Committee met to work with SADC and Green Acres on examining procedures and policies to benefit land preservation

efforts and funding issues. He noted that within the next couple of weeks the Land Preservation Committee will be meeting again to continue this work on funding.

Mr. Di Pirro noted coordination meetings have occurred with both COAH and the Office of Smart Growth centering on ensuring ongoing coordination with those entities. He advised that the State Plan continues to move forward with its process concerning plan endorsement. COAH has a schedule it is required to meet, and in the course of conducting their procedures and making decisions, they will benefit by taking full advantage of the data the Council has developed for its Regional Master Plan. Mr. Di Pirro further advised that the Executive Directors of both agencies have assured their continued coordination with the goals and recommendations of the Regional Master Plan.

Mr. Di Pirro noted that earlier that day he attended and heard testimony offered to the Senate Environment Committee regarding funding generated from the proposed water fee bill which Senator Smith has proposed. The bill highlights the need to protect Highlands water resources and generate adequate funding for land equity. The fees proposed are modest but will be meaningful and would be collected from all who benefit from Highlands water resources. The Garden State Preservation Trust (“GSPT”) has not yet been reauthorized, but it is hoped that this measure could provide a stop gap while reauthorization of the GSPT is sought.

Mr. Di Pirro noted that Mr. Mat Curtis compiled statistics on the Highlands website, which show that it has had about 30,000 hits to date, and averages over 900 hits per day. There are approximately 6,000 repeat visitors, and the average length of visits to the site is 6 minutes. The statistics show that the calendar, the Act, and the maps are the most frequently visited pages on the website.

Mr. Di Pirro also reported that many events have taken place, which staff has attended. These events include the New Jersey Environmental Federation Conference, the Warren County Chamber of Commerce event, Morristown TDR briefing, Hunterdon County Tax Board, and a meeting of the Lake Hopatcong Borough to name a few occasions where a town reaches out to the staff and requests a Highlands representative attend to provide input.

He further noted that some upcoming events are the Alliance for Action, Water Supply Plan meeting, a meeting with Holland Township, Morris County Economic Development Corporation, an event with the Raritan Compact, the Warren County Projects Committee, and the first Municipal Round Table with Sussex County on April the 27<sup>th</sup> as well as an ANJEC TDR conference on April 29<sup>th</sup>. Many important issues are covered by staff at outreach events such as these. Mr. Di Pirro reported that his report has a detailed list of the upcoming events.

Mr. Weingart said with regard to the list of people who have applied for positions, that the list should be deemed confidential. He also asked that members to share any professional familiarity with any of the applicants.

Ms. Letts noted that she is pleased about the continuing outreach events but wants to make sure staff stays on target with development of the plan considering there are over 600 tasks to be

completed. Mr. Di Pirro stated that staff is not being diverted from plan development tasks and that the executive staff carefully analyzes the schedule to make sure the plan does not suffer.

With respect to Mr. Di Pirro's attendance at the Senate Environment Committee hearing on the proposed water fee earlier that day, Mr. Schrier asked whether the Senate was receptive to keeping funds generated by the proposed water tax dedicated to Highlands land preservation efforts. Mr. Di Pirro said the Senators didn't respond at the time, but that he got the sense that the meeting wasn't particularly focused on the fee itself. Instead, the focus of the hearing was broader, including discussions concerning evidence of recent water shortages and climatology issues. He said the DEP testified about the scarcity of water and recent droughts. Mr. Di Pirro did note that there were a number of people, such as the Highlands Coalition and the Counties of Hunterdon and Warren, who testified in favor of keeping the funds generated in the Highlands.

Mr. Schrier asked whether the Council should draft a resolution to state its support for the water fee being sent to the Highlands for preservation efforts. Mr. Di Pirro responded that it may be early in the process at this point since the administration is currently focused on the state budget. However, Mr. Di Pirro noted there is ample time in the future to consider such a resolution and that it may be beneficial to do so.

#### **COMMITTEE REPORTS:**

Mr. Tim Dillingham, Chair of the **Natural Resources Committee**, reported that the committee met earlier that day and primarily focused on the work being conducted with the United States Geological Survey to assess the capacity and availability of water in the Highlands.

He noted that there is a 30 page technical document in the members' packets which was discussed in detail at the committee meeting. Mr. Dillingham stated that interaction with the public and the Technical Advisory Committee ("TAC") affirmed that the methodologies adequately address deducing the issues of water availability. Mr. Dillingham advised that the data is very complex, but the Committee now has a technical basis and is ready to move forward into the second phase of determining exactly how much water capacity exists to then make the necessary relative policy decisions. With regard to policy decisions, he stated that the Committee came up with 25 to 30 considerations to make those decisions, and that it will continue to seek the involvement of the TAC members.

Ms. Pasquarelli asked if the input from the TAC Charrette was used by the Committee. Mr. Dillingham responded that it was and that there are many complex issues with a lot of the information being highly technical, but real world examples learned through the TAC Charrette process have been very helpful. He said the public participation process allowed members and staff to learn a great deal of information.

Mr. Di Pirro noted that Mr. Balzano was very effective at the charrette and was able to demonstrate how the interests of many diverse groups are addressed. Mr. Dillingham agreed and noted that Ms. Lisa Voyce, Ms. Christine Danis and Steve Balzano were very diligent at the TAC Charrette in responding to all the questions asked. A recurring question as to why one methodology should be chosen over another was something they were extremely effective in

addressing. Mr. Balzano offered thanks to Mr. Dan Van Abs and said he has been consistently excellent and rock solid in his advice.

Ms. Carluccio said she wasn't sure how well the TAC process was working until the TAC Charrette meetings. She noted that TAC members were also invited to the earlier Committee meeting that day and they offered some very detailed pieces of input and considerations which were added to the list of works that need to take place. On the issue of the water capacity analysis, she noted that people, who participated in the TACs and spent two whole days on the TAC Charrette, should be commended because the Council will have a much better product because of their efforts and input. Ms. Pasquarelli added that the plan will be better supported as a result of obtaining scientific input from the TACs.

Mr. Dillingham asked Mr. Kurt Alstede to report on the Committee's development of a grant program related to sustainable agriculture practices. He described the Committee's discussion of grants to fund Integrated Pest Management, Integrated Crops Management, Market Development/Niche Crop grants as well as assisting County Agriculture Development Boards. He noted that the committee members met with stakeholders and with representatives of all seven County Agriculture Development Boards in order to make sure duplicate efforts are avoided.

Mr. Alstede noted that the Committee has put together appropriate language for a resolution about the developing grant program, and offered it to the Council for a vote. He said if necessary he would provide further details on the resolution.

Mr. Weingart suggested that the members discuss the resolution.

**CONSIDERATION OF RESOLUTION REGARDING PROCESS FOR THE APPROVAL OF GRANTS FOR THE SUPPORT OF SUSTAINABLE AGRICULTURE:**

Mr. Schrier asked Mr. Alstede with regard to the proposed program, whether there wasn't another program that could be better undertaken by the State rather than by the Council because it has more resources. Mr. Alstede noted that the Highlands Act has many requirements and the Council is charged with the function of maintaining a viable agricultural industry and addressing specific Highlands regional issues. He noted that this grant program will deal specifically with farms in the Highlands, not statewide.

Mr. Schrier noted he was not objecting to anything in the program, but thought that the Council is being singled out and could be letting the State off the hook with regard to Department of Agriculture or SADC. Mr. Alstede replied that it is a misnomer to suggest that the State is not participating. Using IPM as an example, Mr. Alstede explained that the State has about an \$850,000 budget to run professional IPM statewide. He noted the grant program he is speaking of would provide perhaps \$75,000 per year. The balance of that money continues to come from State, federal and producer/grower payments and that the funding is ultimately generated by taxpayers.

Mr. Borden said that part of the discussion at the Committee meeting was the drafting of guidelines and criteria for grant selection which will continue to be refined. This grant program differs from the COAH grant program devised by the Council in that the COAH grant program was self-executing. Under the proposed sustainable agriculture grant program, applications will be reviewed by the Natural Resources Committee in light of specific selection criteria, and then brought before the full Council for further review.

Mr. Weingart said that the resolution today authorizes the Natural Resources Committee to continue its work to develop and implement the grant program and with input and review by Budget and Finance Committee. He asked whether a two week delay would be too long to wait for the two committees to meet and Mr. Alstede did not have a problem with such an approach.

Mr. Vetrano asked if there was a means for letting the agricultural community know about the program. Mr. Alstede said the Committee members have met with the County Agriculture Development Boards of all seven counties as well as officials of the Integrated Pest Management/Integrated Crop Management program. Mr. Alstede also noted that the Farm Bureau and counties each have newsletters and agreed to include the information and publish the details therein.

Ms. Letts asked who will be the applicant for the grants. As to Integrated Pest Management and Integrated Crop Management, Mr. Alstede said there will likely be various interested entities - Rutgers University and another from North Jersey Conservation Resources who has an Integrated Crop Management program. He noted in terms of marketing the niches, some cooperatives will come forward such as the group of dairy farmers looking to brand milk as "Jersey Fresh Milk." Ms. Carluccio noted that at the Committee meeting it was suggested that diverse groups such as the Organic Farmers Association might be an applicant in an effort to develop that market further. She said the Committee hopes to keep the program as open and diverse as possible in order to stir new ideas.

Mr. Borden said that municipalities and counties will actually be the applicant for grants and will work with the specific groups to partner. Mr. Balzano said the Council and County Agriculture Development Boards have been encouraging groups to partner and work toward coordination to promote consistency and that the grant applicants would have to primarily be counties. However, municipalities will not be excluded. One entity would serve as the lead recipient, working with a series of partners of the counties and other interested parties to deliver like services across the Highlands Region to promote consistency.

Ms. Letts wanted to know after someone receives a grant, how the Council will know if the funds are used properly and whether it achieved the desired effect. Mr. Alstede said the Council will be informed and needs to receive the information back in order to support the Regional Master Plan. He said it is necessary to find out how many thousands of pounds of pesticide were not used as a result of the programs.

Ms. Letts asked whether the resolution should include more details about the process for having applicants report back. Mr. Borden said the Committee has a draft of the process with all the details and that the resolution authorizes the committee to review the process. Mr. Borden noted

that the numbered paragraph (1) of the resolution does state what Ms. Letts is referring to inasmuch as it notes the committee is charged with developing the process with review. Mr. Borden added that if the Council is in agreement to table the resolution, he would add more descriptive language to make it clearer.

Mr. Weingart advised that if any members have further suggestions for improving the resolution to kindly let Mr. Borden know.

Mr. Weingart then turned the members' attention to the next resolution regarding the schedule for the Regional Master Plan. He said the resolution would formally state that the schedule for plan adoption has been changed.

### **CONSIDERATION OF RESOLUTION RATIFYING COUNCIL'S REGIONAL MASTER PLAN SCHEDULE:**

Mr. Borden advised that the resolution under consideration describes provisions of the Highlands Act and outlines the process which the Council and staff will follow.

Mr. Schrier motioned to approve, Ms. Kovach and Mr. Vetrano seconded.

Mr. Alstede noted that at the last Council meeting he opposed missing the June 2006 adoption of the Regional Master Plan as outlined by the Highlands Act. He noted that since the last meeting he looked to a copy of the State's Constitution, in particular Section 5, Article 5, item 11, which outlines specifics regarding Boards appointed by the Governor. He then read a portion of that section aloud.

Mr. Alstede further advised that he would vote against the proposed resolution. However, he noted that he did not dispute the need for more time and was not attempting to beleaguer the issue. He said he would simply like to keep to the principle that the Council seek the Legislature's approval where the Council will not meet a mandate of the Act.

Mr. Di Pirro noted that, as a procedural matter, the resolution simply memorializes accurately the Council's actions at its last meeting. He noted further that if the Council reconsiders its decision, that that would be a separate motion for action.

Mr. Schrier expressed agreement with Mr. Di Pirro and said that, after reading the resolution, he felt it was consistent with what occurred. He noted that it is appropriate for the Council to take this action if the Council determines that it needs more time to provide a complete plan to properly meet the requirements of the Highlands Act.

Mr. Mikael Salovaara asked if Mr. Schrier would approve an amendment to the motion to include reference to the fact that Chairman Weingart had provided a letter to the Governor and the Legislature. Mr. Schrier said he did approve and Ms. Letts seconded the amendment. Mr. Weingart asked if any members of the public wished to comment.

David Shope, Long Valley. Mr. Shope said he disagrees with the resolution and requested periodic updates of progress so that he can see where the Council and staff are as to all the tasks remaining.

Jerry Kern, Pohatcong. Mr. Kern said he thought the delay was six months, and questioned whether what is in the resolution totals eight months. Mr. Weingart noted that the plan was originally set for adoption in June and that this provides it will be adopted in December totaling six months.

David Pringle, New Jersey Environmental Federation. Mr. Pringle noted that he supports the extension and said that it is clear there is a need for the delay to get the job done right. He said the planning area resources are being lost every day and that in the interim, the DEP rules and regulations become even more important. He expressed hope that the DEP propose supplemental regulations to address the concerns that have arisen.

An anonymous member of the public stated that everyone has to follow the law, and said that he understood that the Council needs more time to do a more thorough job, but to be sure to do it right.

Wilma Frey, New Jersey Conservation Foundation. Ms. Frey stated she thinks it is a very good idea to get the data together and noted it was not anticipated how complex the tasks would be.

On the prior motion made and seconded, with the approved addition of an additional clause, Mr. Alstede opposed, all others were in favor, APPROVED.

Mr. Weingart stated as a matter of clarification that the minutes which the Council approved today are the minutes the Governor has the power to veto.

#### **CONSIDERATION OF RESOLUTION REGARDING GRANTS TO MUNICIPALITIES AND COUNTIES:**

Mr. Balzano advised that the proposed resolution recommended for approval provides grant funding for Hampton Borough in an amount not to exceed \$12,500 for its fair share planning COAH substantive certification, and three COAH third round obligation assistance grants in an amount not to exceed \$7,500 each, to Boonton Township, Denville Township and Jefferson Township. As a result of the current resolution the Council will have reached 50% of Highlands municipalities.

Ms. Mimi Letts motioned to approve, Ms. Kovach seconded. Mr. Schrier asked if Hampton Borough ever had substantive certification and Mr. Balzano advised that they had not. No public comments were received on the resolution. All were in favor, APPROVED.

Mr. Weingart then opened a public comment period.

## **PUBLIC COMMENT PERIOD:**

Robert Frey, Pohatcong, Farmer. Mr. Frey said he should be home planting corn but felt he had to attend. He read his comments aloud and also provided them in writing. He noted that last year a farmer from the Highlands in New Jersey had the highest crop yield in the country for a non-irrigated farm, and was featured in national farm magazines. He said that the farmer sold off six acres of his land a few years ago and paid off all his debts so he was able to purchase a new tractor and a bigger combine. Mr. Frey said that farmland preservation money runs out next year and that the water tax is now being forced, but everyone wants to dip into the funds it will generate. In conclusion, the Highlands regulations have stifled applications for farmland preservation in Pohatcong Township.

Hank Klumpp, Tewksbury Township, Farmer. Mr. Klumpp advised he owns 150 acres which have been put in the Highlands Preservation Area. He said that the Council has decided to take six more months to adopt a plan, but that it wouldn't matter if it took six more years because he feels what needs to happen is that the Council go back to the Legislature. He said that he attended the Agriculture TAC meeting on the 28th and 29th of March. Mr. Klumpp said that he is still waiting for over six months for the map which shows the scientific reason why his farm was placed in the preservation area. He provided his comments in writing.

Mr. Weingart noted for the record that regarding Mr. Klumpp's comment about waiting for six months for a copy of the scientific map, that the Council in fact responded to Mr. Klumpp that it does not have such a map and since there exists no map that specifically addresses what he was asking that the Council did in fact respond.

Andy Drysdale, Chester Township. He read a letter which he wrote on April 7th to all Legislators and Governor Corzine. He said that he owns a 16-acre parcel and has been a self employed land surveyor since 1969. He said that he believes now is the right time to nullify all of the bad features of the Highlands Act. Mr. Drysdale provided his comments in writing.

David Shope, Long Valley. Mr. Shope said that the voters have spoken to newspapers and objected to school taxes. He also said that the voters probably won't approve any more open space funding, which means the Council's job will be to complete the theft due to the Highlands Act since there will be no funding and no relief. Mr. Shope said he thinks the resolution regarding sustainable agriculture is the only thing farmers have left and that all of their other rights have been taken away. Mr. Shope suggested that, absent a business plan to provide money, the whole thing is a farce. He also suggested that the Council establish a grow-by permit system which has been done for tobacco and hops.

Jason Stypinski, attorney from the firm of Sterns and Weinroth. Mr. Stypinski said he represents OFP, Inc. which owns a 26 acre lot. Final DEP permits had been received prior to the Highlands Act. He noted the company did apply for a waiver to the retroactive implementation of the Act's restrictions. Mr. Stypinski stated that unfortunately the interim rules do not allow for the filing of a waiver application. He said that now that TDR will not be available until December, there is no remedy in place for companies like OFP. He asked that the Council implement remedies as

soon as possible. Mr. Weingart asked him when final approval was obtained and Mr. Stypinski replied it was in June 2004.

Debra Post, Chester. Ms. Post noted there are six land use categories on pages 11 and 12 of the scoping document and that the areas are not clearly defined. She asked if the zones are subsets of the areas, or are they distinct and separate from each other. Ms. Post asked what the purpose was for having a conservation zone in the planning area. Ms. Post also asked where TDR receiving zones will be and whether the redevelopment zones were basically a community zone in the preservation zone. She said the map on page 11 does not show any agricultural area. Ms. Post asked if the Regional Master Plan will *de facto* down zone the agricultural lands so that all farmers are harmed equally. She also asked if agricultural lands will be down zoned to almost zero. She provided her comments in writing.

David Pringle, New Jersey Environmental Federation. Mr. Pringle said the Federation has 70,000 members and many of those members drink highlands water. He said he is a paid environmentalist and was featured in New Jersey monthly. He was proud to be featured in the publication as the lowest paid and noted that as a lobbyist who helped get the Highlands Act passed he stated that the map was based on science but had to go through a political prism. Mr. Pringle noted that landownership doesn't give residents the right to pollute it. Mr. Pringle said he is confident the Council will get it right and have a good plan and offered the question of how valuable would the farmland be if there was no Route 287 and no Route 80. He said he supports farm crops but not houses and said he wants to see the majority of the water tax money go to land preservation so that it doesn't fund sprawl.

Scott Olsen, Byram Township. Mr. Olsen said Byram is 14,400 acres, and that the town is primarily owned by the State. He noted that the majority of property owners in Byram drink water from on their own lands. He said his home is worth nothing if the water beneath it is polluted, and appreciates the efforts of the Council.

Mr. Weingart advised that the next Council meeting will be on May 4<sup>th</sup> at 10:00 a.m. at the Chester office.

**ADJOURN:**

Mr. Schrier motioned to adjourn, Ms. Carluccio seconded, all were in favor, and the meeting ADJOURNED at 6:00 p.m.