

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF JUNE 16, 2011

PRESENT

JIM RILEE)	CHAIRMAN
JACK SCHRIER)	VICE CHAIRMAN
KURT ALSTEDE)	COUNCIL MEMBERS
TRACY CARLUCCIO)	
TIMOTHY P. DOUGHERTY)	
MICHAEL FRANCIS)	
ROBERT HOLTAWAY)	
JAMES MENGUCCI)	
CARL RICHKO)	
JAMES VISIOLI)	
ROBERT G. WALTON)	

CALL TO ORDER

The Vice Chairman of the Council, Jack Schrier, called the 105th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:03pm.

ROLL CALL

Roll call was taken. Tim Dougherty was absent. All other Council 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.

ACTING CHAIRMAN'S REPORT

Vice Chairman Schrier gave his last report as Acting Chairman. Jack commented that he has been an Acting Chairman for the last year in a half in his capacity as Vice Chairman. Vice Chairman Schrier further commented that the Acting Chairman is an elected position by the Council whereas the Chairman position is designated by the Governor. Vice Chairman Schrier noted that it was with the gracious consent of the incoming Chairman he was opening this meeting today. Vice Chairman Schrier then turned over the gavel to Jim Rilee, welcoming the new Chairman of the New Jersey Highlands Council.

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CHAIRMAN'S REPORT

Chairman Rilee thanked Vice Chairman Schrier for his introduction. Chairman Rilee first took the opportunity to thank Governor Christie for appointing him to the New Jersey Highlands Council and designating him as Chairman. Chairman Rilee looks forward to serving this Council and working with the property owners, municipalities and his colleagues on the Council. Chairman Rilee also welcomed the new Council Members present and looks forward to working with all Council members and Highlands Council Staff. He understands the importance to preserve and protect our water supply and also believes Council should act within the laws of the Highlands Act as approved by the Legislature in 2004. Chairman Rilee knows this Council has put in a lot of hard work and is appreciative, Council has many new members coming on board and Chairman Rilee will be asking for a review of the Council's actions and policies to make sure Council is working within the law and that all parties are being represented at the table. Chairman Rilee intends to thoroughly review the process the Council used to draw their RMP and that may include mapping, available compensation to property owners or even environmentally sensitive areas in Protection Zone and Chairman Rilee will ask his fellow Council Members to do the same. Chairman Rilee intends to work with the Council on a top to bottom review of our regulations and structures and investigate opportunities to work with other state agencies to get the best results for our mission of protecting our water supply. Chairman Rilee further stated that his goal is to be fair to all parties, represent all that are impacted and make the Highlands Region a great place for all residents of New Jersey. The Council has a lot of hard work ahead and Chairman Rilee looks forward to working with everyone involved as Council moves forward to reach our ultimate goal of protecting our water supply.

APPROVAL OF MINUTES OF MAY 19, 2011

Vice Chairman Schrier introduced a motion to approve the minutes. Mr. Richko seconded it. Mr. Dougherty was absent. Messrs. Mengucci and Walton abstained. All other members present voted to approve. The minutes were APPROVED 8-0.

EXECUTIVE DIRECTOR'S REPORT

Ms. Swan welcomed the new Chair and Council Members on behalf of herself and the Highlands Staff and expressed that the staff looks forward to working with the new members. Ms. Swan then stated that it is customary to use a PowerPoint presentation during the Council meetings and that the PowerPoint will be posted on the website and serve as part of the public record. Ms. Swan noted that the cover of the presentations for each meeting displays the cover of the Highlands Regional Master Plan (RMP) using photos of the towns that the Council will consider for that particular meeting.

Ms. Swan began her presentation by stating that the Highlands Council was the recipient of a New Jersey Future 2011 Smart Growth Award for Byram Township's Village Center, the first designated Highlands Center. The award ceremony took place on June 9, 2011. Ms. Swan noted the recipients of the award: Mayor Oscovitch of Byram Township; Paul Gleitz, Planner, Heyer Gruel & Associates; and Jack Schrier, Acting Chairman of the New Jersey Highlands Council who accepted the award on behalf of the Council.

Plan Conformance Update

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Ms. Swan gave a brief summary update to the Council on Plan Conformance Petition reviews. To date, 65 Petitions have been submitted (60 Municipalities and 5 Counties); 53 have been deemed administratively complete and posted to the Highlands Council website (including 2 Counties). Of the 53, 23 Petitions have been approved to date: Townships (14) – Bethlehem, Byram, Chester, Denville, Franklin (Warren), Green, Holland, Lopatcong, Mahwah, Mount Olive, Rockaway, Tewksbury, Washington (Morris) & West Milford; Boroughs (6) – Califon, Glen Gardner, Hampton, High Bridge, Kinnelon & Lebanon; Towns (1) – Clinton; and Counties (2) – Passaic and Somerset. At today's meeting Council will be considering Petitions for the Town of Hackettstown, Bloomsbury Borough, Bloomingdale Borough and Pohatcong Township. Ms. Swan then showed 6 maps which show the progress of Highlands Council's twenty-three approved Petitions. The sixth map showed the municipalities under Council's consideration today and, if approved, will take effect after the Governor's review period of the Council's minutes. Ms. Swan made note that for a municipality with lands in the Preservation Area lands conformance is mandatory and in Planning Area it is voluntary. Ms. Swan then outlined the municipalities being considered at today's meeting:

- Town of Hackettstown is seeking to conform for both the Preservation Area (203 acres) and the Planning Area (2,171 acres).
- Borough of Bloomsbury is a Preservation Area only community (632 acres) and is seeking Plan Conformance.
- Borough of Bloomingdale is seeking to conform for both the Preservation Area (4,155 acres) and the Planning Area (1,762 acres).
- Township of Pohatcong is seeking to conform for both the Preservation Area (7,571 acres) and the Planning Area (1,208 acres).

Ms. Swan also outlined the status for upcoming meetings. The Municipal Response Period is underway for 7 municipalities: Townships – Lebanon, Parsippany-Troy Hills and Sparta; Boroughs – Alpha, Oakland, Ringwood and Wharton. Ms. Swan noted that we continue to have municipalities that Petition just for Preservation lands requesting a change in their Petition so they can also conform for the Planning Area lands. The Council also has a Highlands Redevelopment Area Designation Application from Givaudan, Mount Olive Township as a request for July consideration.

Plan Conformance Grant Program

Ms. Swan provided the average amounts requested for reimbursement by municipalities that are participating in Plan Conformance grant activities. She noted that this analysis has been updated to include the average costs associated with the Municipal Response Period. Ms. Swan advised the Highlands Council that on average the expenses of the seven Modules are very close to the projected base amounts as set forth in the following chart.

<u>Towns</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,830	71
Module 2	\$10,000	\$ 6,704	70
Module 3	\$ 7,500	\$14,309	58
Module 4	\$ 2,000	\$ 3,175	61
Module 5	\$ 2,500	\$ 6,726	53
Module 6	\$ 5,000	\$ 4,411	50
<u>Module 7</u>	<u>\$ 8,000</u>	<u>\$ 7,311</u>	48

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Module Subtotal	\$50,000	\$56,140	
<u>Municipal Response Costs</u>	<u>\$ 8,000</u>	<u>\$ 7,473</u>	16
Plan Conformance Cost	\$58,000	\$63,939	

Ms. Swan also commented that a great deal of attention is paid to making sure that we monitor and manage the grant program. Ms. Swan then went on to give an overview of grants awarded as part of the Petition approval process. The following are the average awards for the critical implementation plans for the 21 approved Petitions for Plan Conformance, and the 4 municipalities being considered at this meeting.

<u>Implementation Plans</u>	<u>Average</u>	<u>Number</u>
Highlands Center/Redevelopment Plan	\$18,214	14
Sustainable Economic Development Plan	\$14,285	7
Wastewater Management Plan	\$ 3,659	22
Stream & Lake Protection Plan	\$30,042	19
Water Use & Conservation Management Plan	\$60,909	11
Habitat Conservation & Management Plan	\$21,076	13
Agriculture Retention/Farm Preservation Plan	\$13,388	9

Ms. Swan focused attention on the fact the Highlands Council is doing wastewater plans for those towns that conform for 100% of the municipality, this is seen as another service that is provided and towns have been pleased to have this done for them. She acknowledged Highlands staff members Dan Van Abs as the Senior Director of Planning and Science who leads the process of Wastewater Management Plans as well as Casey Ezyske, a part-time employee who is working with Dan and is the staff person responsible for the wastewater plan narratives. Mr. Van Abs also leads the Water Use & Conservation Management Plans.

Mr. Dougherty joined the meeting at 4:15pm.

Resolution – Election of Treasurer of the Highlands Council

Vice Chairman Schrier made a motion to appoint Robert Holtaway as Treasurer of the Highlands Council. Mr. Richko seconded it. All members present voted to approve. The Resolution was APPROVED 11-0.

Public Hearing and Consideration of Resolution – Petition for Plan Conformance by Town of Hackettstown, Warren County

Ms. Swan recognized representatives from Town of Hackettstown: William Conforti, Councilmember; Paul Sterbenz, Engineer; and Darlene Jay, Planner.

Chairman Rilee made an announcement that new Councilmember Timothy Dougherty was in attendance.

Ms. Swan then proceeded with the PowerPoint presentation of the Public Hearing for the Town of Hackettstown Petition for Plan Conformance. She presented photographs of Hackettstown so the

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Council could focus on the character of the community and the past planning and protection initiatives of Hackettstown. Ms. Swan presented background statistics and information for the Town of Hackettstown.

- Incorporated: 1853
- Population (2009 est.): 9,542
- Land Area: 2,374 acres / 3.7 sq. mi.
- Preserved Lands: 550 acres
- Wetlands: 245 acres
- Total Forest: 766 acres
- Farmland: 70 acres

Ms. Swan presented significant Highlands statistics as they pertain to Town of Hackettstown:

- Planning Area Lands: 2,171 acres – 91%
- Preservation Area Lands: 203 acres – 9%
- Existing Community Zone – 1,484 acres – 63% (Roads 10%)
- Protection Zone – 644 acres – 27%
- Highlands Open Water Protection – 1,131 acres – 48%
- Forest Resource Area – 913 acres – 39%
- Conservation Priority Areas – 237 acres – 10%

**Town of Hackettstown
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	856	0	36.1%
Commercial (Retail)	246	0	10.4%
Industrial & Transportation & Utilities	142	12	6.5%
Agriculture (Crops & Plantations)	69	37	4.4%
Recreational Lands (Public & Private)	103	0	4.4%
Military	0	2	0.1%
Other Urban or Built-Up Land	111	3	4.8%
Subtotal Developed Lands	1,527	54	66.6%
Mixed Forest	263	121	16.2%
Shrub & Scrub	41	2	1.8%
Mixed Wetlands	231	14	10.3%
Barren Lands	35	0	1.5%
Water	74	11	3.6%
Subtotal Natural Lands	644	149	33.4%
Total	2,171	203	100.0%

Ms. Swan then showed a movie representing a ‘fly over’ of Town of Hackettstown. The movie offered an opportunity to focus on the developed footprint of the Town, the existing infrastructure and the Preservation and Planning Areas. Ms. Swan then showed the land use ordinance maps for the Town.

Hackettstown Highlands Center

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Ms. Swan reported that Hackettstown's Petition was accompanied by a request for Highlands Center Designation. Hackettstown has functioned as a regional center for decades and is accessible from a well-developed road and transit network including:

- State Routes 57, 46, 182, and County Routes 517 and 604
- NJ Transit Montclair-Boonton train line and multiple bus routes

Ms. Swan further noted that the town is serviced by public water and sewer. She pointed out that the Stiger Street Redevelopment Area adopted in 1999 includes the Train Station and Bergen Tool Site. Headquarters for M&M/Mars is located in Hackettstown and recently installed a solar array to supply energy to their facilities. The town is also home to the expanded Hackettstown Regional Medical Center.

The Highlands Council and Hackettstown worked collaboratively to delineate the proposed Hackettstown Highlands Center to encompass:

- Central Business District
- Hackettstown Historic District
- Centenary College Campus
- Stiger Street Redevelopment Area
- Hackettstown Regional Medical Center & adjacent affordable housing
- M&M/Mars facilities
- Commercial/Residential development near border with Mansfield Twp

The total area of the proposed Highlands Center includes approximately 743 acres, all of which is in the Planning Area and is mostly served by both water and sewer service.

Ms. Swan then provided an overview of the Petition of Plan Conformance and the administrative record for Town of Hackettstown as follows:

12/7/09	Petition for Plan Conformance Submitted, Preservation Area
3/31/10	Petition Deemed Administratively Complete
4/9/10	Petition Posted to Highlands Council Website
1/26/11	Resolution by Town to Conform for Planning Area
5/16/11	Draft Consistency Report Sent to Municipality
5/20/11	Final Draft Report Posted to Highlands Council Website
6/6/11	End of Public Comment Period (Start 5/20/11)
6/10/11	Final Report Posted to Highlands Council Website
6/16/11	Highlands Council Public Hearing

Ms. Swan acknowledged Maryjude Haddock-Weiler, Regional Planner, as Highlands's staff liaison for Town of Hackettstown.

Ms. Swan further noted that Town of Hackettstown had completed the Module submittals required under Plan Conformance and that this PowerPoint is posted to Council's website as part of the record. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for Town of Hackettstown 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. Staff RMP Consistency Finding is that Town of Hackettstown Highlands Municipal Build-Out Report is

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that it is consistent with the RMP. With respect to Module 3, the Council staff found that Town of Hackettstown's COAH-certified third-round Housing Element and Fair Share Plan (December 2007) was consistent with the RMP.

Ms. Swan then continued with her presentation with respect to the Environmental Resource Inventory, Module 4. Ms. Swan noted that it describes and illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality. The Staff RMP Consistency Finding is that Town of Hackettstown's Environmental Resource Inventory is consistent with the RMP.

With respect to the Master Plan Highlands, Module 5, Ms. Swan noted that the Staff RMP Consistency Finding is that Town of Hackettstown's will provide revisions for Highlands Council approval to incorporate all relevant language establishing the Highlands Center (pending approval), and providing the basis or regulatory provisions that will govern it. Master Plan Highlands Element is consistent with the RMP. With respect to the Highlands Area Land Use Ordinance, Module 6, Ms. Swan noted that these regulatory provisions protect Highlands Resources and effectuate the policies, goals, and objectives of RMP at the local level. The Staff RMP Consistency Finding is that Town of Hackettstown'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, and the Highlands Implementation Plan & Schedule. The Staff RMP Consistency Finding is that Town of Hackettstown's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan then presented a summary of the public comments received and a summary of the draft responses prepared by Highlands Council staff for Town of Hackettstown's Petition for Plan Conformance. The public comment period for Town of Hackettstown's Petition for Plan Conformance opened on May 20, 2011 and closed June 6, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Comments received from:

- Erica Van Auken, Campaign and Grassroots Coordinator - New Jersey Highlands Coalition

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Comments submitted by Erica Van Auken, New Jersey Highlands Coalition:

Comment: The Highlands Coalition supports the Town of Hackettstown's petition for plan conformance.

Response: The Highlands Council acknowledges the overall support for the Petition for Plan Conformance.

Comment: The Highlands Coalition supports the implementation of a Highlands Redevelopment Designation and Stream Corridor Protection and Restoration Plan as long as they are fully consistent with the Regional Master Plan. Specifically noted was redevelopment of the Bergen Tool Site, which is located within the proposed Highlands Center.

Response: Redevelopment of the Bergen Tool Site, and potentially other sites identified during the Highlands Center designation process, will be in accordance with the goals, policies and objectives of the Regional Master Plan, notably, Policy 6H4 - To promote compatible growth opportunities that include in-fill development, adaptive re-use, redevelopment, and brownfields redevelopment in existing developed areas; and Policy 6H5 - To promote land uses which create a sense of place with attractive, walkable neighborhoods that support community connectivity of developed lands and community facilities.

The Draft Highlands Implementation Plan and Schedule includes an allocation for the development of a Stream Corridor Protection and Restoration Plan which will be designed to both protect and restore stream corridors and plan for use of these stream corridors as a recreational greenway within the Town. A healthy stream system is expected to benefit flora and fauna, as well as the human population which enjoys these resources. The work associated with the Stream Corridor Protection and Restoration Plan will be fully consistent with the Regional Master Plan.

Comment: The Highlands Coalition is concerned that future development will strain existing water resources unless water use and conservation measures are aggressively implemented throughout all subwatersheds.

Response: Water Use and Conservation Management Plans will be developed over time for subwatersheds within the Highlands Region for the purpose of reducing and, where possible, eliminating Net Water Availability deficits, as a requirement of Plan Conformance. The Draft Highlands Implementation Plan and Schedule includes an allocation of funds for the Town of Hackettstown in collaboration with the Hackettstown Municipal Utilities Authority (HMUA), other affected municipalities, and the Highlands Council to develop a Water Use and Conservation Management Plan for the purpose of reducing and, where possible, eliminating Net Water Availability deficits, which plans will include ongoing activities of the HMUA, such as conservation rate structures and asset management. In a separate application, HMUA is working with the Highlands Council to decommission reservoirs which will likely improve water quality as the temperature, dissolved oxygen, and nutrient impairments that accompany deep, still water are eliminated. Additionally, aquatic ecology is likely to improve in these stream reaches as the flow regimes are restored to natural flows and the stream corridor is returned to a riparian habitat.

Comment: The Highlands Coalition questions the ability of the Town of Hackettstown to accommodate the affordable housing projections they have included in their Housing Element and Fair Share Plan without undue stress on the natural environment. The Coalition suggests that affordable housing needs be sensitive to the historic character of the Town and that an Historic Preservation Plan element be developed to accomplish this intention.

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Response: The Town of Hackettstown, in their Housing Element and Fair Share Plan (HE&FSP), developed projections of growth and consequent growth share obligations in accordance with the requirements of the Council on Affordable Housing (COAH). The Town's projections are based on actual development from 2004 through 2008 and anticipated growth beyond to 2018. The HE&FSP anticipates infill and redevelopment within the Town and endorses a policy to encourage development that maintains the character of the Town. It was also noted that Hackettstown has endeavored to provide affordable housing close to areas where jobs and transportation are available. The Draft Highlands Implementation Plan and Schedule includes, among other initiatives aimed at supporting Hackettstown's Highlands Center, an allocation to update the Town's Historic Preservation Plan element, with emphasis on incorporating the existing Historic District into the overall plans for the Center and considering appropriate architectural guidelines for use within the Historic District.

Comment: The Highlands Coalition would like to have an historic survey conducted as part of the Historic Preservation Plan element for the Town of Hackettstown.

Response: The Town of Hackettstown 1988 Master Plan includes a Historic Resource Inventory for the Hackettstown Historic District. It was commented on that Hackettstown should be recognized for their planning to protect their historic district. The Highlands Historic, Cultural, and Archaeological Resource Inventory also includes all resources listed on the National and State Register of Historic Places, as well as those resources considered eligible for listing. As noted above, the Draft Highlands Implementation Plan and Schedule includes an allocation to update the Town's Historic Preservation Plan element, however, this does not anticipate completion of a new historic survey of the Town.

Comment: The Highlands Coalition is concerned that the affordable housing site known as Van Paftinos III will place additional strain on the existing traffic patterns within the Town.

Response: The Van Paftinos III affordable housing project is expected to include 80 affordable housing units. The sites are located within one mile of the Hackettstown Train Station and within approximately ½ mile of the Hackettstown Regional Medical Center. This inclusionary development is consistent with the Regional Master Plan goals, policies and objectives encouraging compact development, proximity to alternative modes of transportation and the creation of a range of housing types. The site is in the Planning Area.

Ms. Swan then summarized the Staff Recommendation for Town of Hackettstown's Petition for Plan Conformance that it be approved with the following conditions:

- Adoption of Approved Planning Area Ordinance
- Adoption of Approved Checklist Ordinance
- Adoption of Completed Environmental Resource Inventory
- Completion and Adoption of Master Plan Highlands Element
- Completion and Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map
- Wastewater Management Plan
- Compliance with Fair Housing Act (COAH Certification). This condition requires updates on COAH proceedings and Council review of any proposed changes to the Fair Share Plan and Housing Element.

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- Update/Development & Implementation of:
 - Highlands Center Designation Planning
 - Highlands Redevelopment Area Planning
 - Sustainable Economic Development Plan
 - Stream Corridor Protection & Restoration Plan
 - Water Use & Conservation Management Plan
 - Habitat Conservation & Management Plan
 - Stormwater Management Plan (updates only)
 - Septic System Management/Maintenance Plan
 - Land Preservation & Stewardship Program
 - Historic Preservation Plan Element

Ms. Swan then reported the future Highlands Protection Fund grants for Town of Hackettstown as part of the Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:

- **Highlands Center Designation Planning** to link sustainable economic development, historic preservation planning, and redevelopment opportunities to support Hackettstown's efforts to redevelop and revitalize the core of the municipality. This planning will assist the Town's efforts to develop form-based codes.
- **Sustainable Economic Development Plan** to investigate economic development opportunities, including potential redevelopment sites and economic benefits associated with the historic character of the Town.
- **Historic Preservation Plan Element** to prepare an updated Plan to support economic development and incorporation of the Town's historic districts into Center Designation.
- **Stream Corridor Protection /Restoration Plan** to protect/restore streams, mitigate the impacts of future land uses, and investigate the potential for a recreational greenway within these corridors.
- **Highlands Redevelopment Area Planning** to identify redevelopment opportunities within the Town.
- **Water Use and Conservation Management Plan** to work cooperatively with the Hackettstown Municipal Utilities Authority with the Highlands Council serving as lead.
- **Habitat Conservation and Management Plan** to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.

Vice Chairman Schrier made a motion to approve the Resolution for Town of Hackettstown. Ms. Carluccio seconded it.

Public Comments

Paul Sterbenz, Maser Consulting - Mr. Sterbenz thanked the Council for considering the Town of Hackettstown's Petition. Mr. Sterbenz looks forward to working with Council and staff on achieving the numerous planning initiations that are in the Implementation Plan and Schedule and if the Town of Hackettstown achieves what is in the Petition the Town will be a better place to live, as well as Warren County and Morris County and certainly the Highlands Region will be better

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protected. Mr. Sterbenz noted that he has worked with the Highlands staff on a number of municipalities for the past 4-5 years and Council staff is amazing and wonderful to deal with and has been responsive throughout this process.

David Shope, owns property in Lebanon Township - Mr. Shope commented that he has concerns with this application as he has had with others in the past. Mr. Shope stated that the fair share housing element does not in any way mention the difference in low income housing requirements that COAH says would be required should the town not opt in. The COAH numbers are significantly higher than the numbers under the Highlands RMP. Mr. Shope suggested the Council used phony numbers. When the town opts into the Planning Area they make themselves the bad guys because it is up to the town to enforce Council's laws and Council is immune from this process and this is by design. Mr. Shope feels that towns may want to consider their own citizens when opting in to the Planning Area when they really did not have to do.

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken commented that the New Jersey Highlands Coalition supports the Town of Hackettstown's Petition for Plan Conformance and are eager to see the progress regarding the Bergen Tool Development Site. The Coalition feels the site has the potential to exemplify responsible redevelopment and historic preservation because of its prominent location on Main Street in the historic district. Ms. Van Auken also expressed concerns for future residential and commercial development in the northern portion of the town. Development in this part of the town will negatively impact traffic patterns exasperating flow on Main Street and will draw economic activity away from Main Street and will negate the positive effects that a center has on a town.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey supports Hackettstown Petition for Plan Conformance. Ms. Frey stated that Hackettstown has already made a start for becoming a vibrant center and it has improved over the last 20 years and this plan will give a jump start to that vibrancy and make it an even better place than it would be without the plan.

Council Comments

Mr. Francis asked if the Water Use Conservation and Stormwater Management Plans have been addressed. Mr. Sterbenz responded that the Implementation Plan & Schedule will address those issues.

Mr. Alstede asked if Hackettstown considered being a TDR Receiving Zone for further growth. Mr. Sterbenz responded to say that the governing bodies are not interested at this time. Mr. Alstede commented that if the only mechanism Council has to compensate landowners is TDR and questioned how does the system work if TDR receiving zones are not designated. Chairman Rilee responded to say it is a problem and hopes that Council will address it.

Mr. Walton asked what the reason was for Hackettstown to decide to conform in the Planning Area. Mr. Sterbenz responded that there were aspects of the RMP that were appealing to the town and Hackettstown felt that after a number of meetings with Highlands staff that the Town could work together to improve Hackettstown as well as the Highlands Region. Mr. Sterbenz further stated that it was not something Hackettstown jumped on board with initially, but after discussing with the staff

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and coming to some common ground, the Town decided to amend the Petition to include the Planning Area. Mr. Sterbenz continued to say that the most appealing planning initiative was the fact that the staff was willing to support a Highlands Regional Center. In the past, the town tried to get a regional center approved and was unsuccessful. At the time Hackettstown was required to work with some adjoining communities and could not get that effort accomplished and it fell by the wayside. Mr. Sterbenz concluded that this process enabled them to refocus on it and that was a major catalyst and ultimately led them to come to the table with the amended Petition for the Planning Area. Mr. Walton then referred back to Mr. Alstede's question about TDR and asked if not in Hackettstown then where. Mr. Sterbenz responded that it would have to take some study. Mr. Sterbenz commented that based on the knowledge that he had, the Town does not have the infrastructure and utilities to handle transfer of development from other communities in the area. Mr. Sterbenz stated that it would put some strains on the town and make it difficult to meet those demands. Council member Michael Francis also expressed concern about the lack of a TDR program for Hackettstown.

Chairman Rilee commented that out of fairness and because there are new Council Members he asked Ms. Swan to contact all Mayors of the towns being considered today to see if they wanted to continue to go forward with their Petition. Chairman Rilee stated that all Mayors agreed to go forward.

All members present voted on the Resolution by roll call. The Resolution was NOT APPROVED by a vote of 7-4.

Ms. Carluccio commented that she would like to reintroduce the Resolution because it warrants more discussion by Council. Council has never had a conforming application come before Council and then get turned down. Ms. Carluccio thinks this application warrants Council's support to encourage smart growth and that it was wrong not to approve Hackettstown's Petition. Ms. Carluccio stated that Hackettstown can do it with our help, but they cannot do it without us. Ms. Carluccio made a motion to reintroduce this Resolution.

Mr. Schrier seconded Ms. Carluccio's motion to reconsider Hackettstown's Resolution. Mr. Schrier commented that a great deal of thought and effort has been put into Petitions and the Council works with the municipalities in the region to help them accomplish their goal and Mr. Schrier seconded Ms. Carluccio's motion.

Mr. Holtaway commented that the state has been revoking all centers and this does have substantial impact on a town's facilities and to deny Hackettstown, the town will suffer. Mr. Holtaway added that from an economic and job standpoint putting a Highlands Center in where the state has revoked one will only benefit Hackettstown, the County and the residents that depend on that area for future employment.

Mr. Francis voiced his concern about the lack of a TDR Receiving Zone and that it is a two-way street and a town should consider TDR. If Council is going to approve a town where a TDR Receiving Zone is not being considered then Council needs to relook at a town that is well developed and reconsider conformance. Mr. Holtaway responded to say that perhaps Hackettstown's Petition should be tabled in fairness to Hackettstown. There was Council discussion that Council should not force a municipality to take a TDR Receiving Zone.

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Mr. Alstede brought up a procedural question related Robert's Rules of Order and questioned whether it is permissible to reconsider a motion that Council just voted on. He stated that Council needs to have a 2/3 vote to open that up again. Mr. Borden responded that the Highlands Council's Bylaws specify that the Council uses Robert's Rules of Order as a guide but that the Chairman has the authority to rule on these procedural questions.

Mr. Alstede's concern is how do we consider a regional center but then dismiss the fact that we need to establish some level of a TDR Receiving Zone. Mr. Schrier responded that there is no prohibitions on having Hackettstown reconsider whether or not they want to be a receiving zone under the TDR program. As previously stated the Council does not want to force a municipality into this program because once this Petition is approved they have an opportunity to do it subsequently if they decide to. Mr. Walton asked if Council can reconsider and have the municipality come back to ask for reconsideration of the Petition for Plan Conformance.

Mr. Richko thinks it is important that after the amount of work done by the Staff on this Petition Council gets some input from our Executive Director regarding Council's discussion on center designation and TDR Receiving Zone. Ms. Swan responded to say that this discussion was held with Mr. Sterbenz, the municipality and the Mayor and the concern at this time was that the Town did not believe they had the infrastructure to support a TDR Receiving Zone, similar to the public comments heard today. The town was focusing on redevelopment not increased density that TDR would require. The increased density that is part of TDR was something Hackettstown was concerned about and that the planning studies that Council would provide them on the Highlands Center would give them a better idea if they had the infrastructure to pursue anything in the future. Ms. Swan reiterated to say that the municipality said "at this time" they did not think it was feasible and did not think they have the infrastructure to support, but they did not rule it out. Ms. Swan stated that the Act was clear that there is no mandatory TDR Receiving Zones and that is reiterated in the RMP. Hackettstown was never reluctant to study the possibilities for TDR Receiving Zone, but the concern was the ability to take in additional density above what their existing zoning allows. The planning studies they would undertake would answer that question.

Chairman Rilee stated that if Council starts forcing towns to take TDR they will really opt out of the Planning Area.

Mr. Richko brought up the fact that municipalities are mandated to conform in the Preservation Area and Council voted no to that right now. Ms. Carluccio asked if Mr. Borden had anything to add. Mr. Borden reiterated what Ms. Swan said that in the initial stages of development of the RMP the Council took a very strong position that, under the Highlands Act, mandating TDR was specifically precluded because of the experience in the Pinelands. Mr. Borden further stated that the Pinelands Protection Act required that Pineland Commission mandate receiving zones and the Legislature specifically took away that power and precluded Highlands Council from mandating TDR Receiving Zones. He added that the Council went even further - not only will Council preclude and not mandate TDR Receiving Zones but the RMP does not mandate growth. The growth will be consistent with the municipality's planning initiatives and the RMP.

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There was continued Council discussion on TDR Receiving Zones, the Hackettstown Petition, Hackettstown's concerns as to why they did not decide to be a TDR Receiving Zone at this time, the Act, and Hackettstown's process so the Town may further study the planning potential.. Mr. Visioli commented that Council's interaction is good to have but unfortunately the discussion was not before the vote.

There was then discussion about the Robert's Rules of Order as mentioned previously. Mr. Borden reiterated that the statutory mandate under the Highlands Act require 8 affirmative votes to approve an action of the Council. Mr. Borden stated that the Bylaws specify that the Council is guided by Robert's Rules but to date the Council has not strictly adhered to Robert's Rules. Mr. Borden further stated that the Bylaws provide the Chair with the ability to rule on any procedural aspect of the voting so it is entirely under the Chair's prerogative.

Mr. Walton made a suggestion that the Council would benefit by a more thorough explanation as to why Hackettstown was not accepting TDR. He looked to the town to respond and Mr. Sterbenz said there were good substantial reasons. Mr. Walton further suggested it would be worthwhile for Council to table the resolution to have more information to move forward Mr. Dougherty stated that he understood that Robert's Rules requires that a motion for reconsideration or to table a Resolution, it has to be made by a member who voted no on the original Resolution.

Mr. Richko thought perhaps Council should hear from Hackettstown's Council Member present today. Chairman Rilee invited anyone from Hackettstown to respond to Council's discussion. Mr. Conforti, Council Member of Hackettstown responded that he did not have enough information to speak on behalf of the Town on the TDR issue and the amount of additional development that would come with that. Mr. Alstede read from TDR provisions of the RMP and said that Hackettstown is an area that is more suitable for some additional development.

Chairman Rilee stated that personally he was not prepared to pick and choose which municipality should be a TDR recipient. He said that TDR is an issue along with the funding for landowners. He recapped the discussion by stating that he did not expect the vote would go the way it did today and that there were new members that are getting up to speed. .

Ms. Carluccio asked for an amendment to her motion to table the Hackettstown's Petition until next meeting. Mr. Schrier seconded the motion. Chairman Rilee asked if there were any other discussions.

Vice Chairman stated that the issue was misunderstood and Mr. Alstede's question about where TDR is going, if not in Hackettstown, to go muddled the water and he wanted to clarify that issue.

A roll call was taken to table Hackettstown's Petition. It was APPROVED 11-0.

Ms. Swan acknowledged Maryjude Haddock-Weiler, Highlands Staff Regional Planner and liaison for Hackettstown, she recognized Maryjude for all her work with this petition.

Mr. Dougherty temporarily left the meeting at 5:29pm.

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Public Hearing and Consideration of Resolution– Petition for Plan Conformance by the Borough of Bloomsbury, Hunterdon County

Ms. Swan acknowledged Lisa Burd, the Clerk and Administrator from Borough of Bloomsbury who was representing Bloomsbury.

Ms. Swan then proceeded with the PowerPoint presentation of the Borough of Bloomsbury Petition for Plan Conformance. She presented photographs of Borough of Bloomsbury so the Council could focus on the character of the community and the past planning and protection initiatives of the borough. Ms. Swan presented background statistics and information for Borough of Bloomsbury.

- Incorporated: 1905
- Population (2009 est.): 863
- Land Area: 632 acres /.98 sq. mi.
- Preserved Lands: 143 acres
- Wetlands: 21 acres
- Total Forest: 216 acres
- Farmland: 161 acres

Ms. Swan presented significant Highlands statistics as they pertain to Borough of Bloomsbury:

- Preservation Area Lands: 632 acres – 100%
- Protection Zone – 289 acres – 46%
- Existing Community Zone – 149 acres – 24% (Roads 12%)
- Conservation Zone – 117 acres – 18%
- Highlands Open Water Protection – 240 acres – 38%
- Forest Resource Area – 304 acres – 48%
- Agricultural Priority Areas – 227 acres – 36%
- Conservation Priority Areas – 45 acres – 7%

**Borough of Bloomsbury
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Pres	Percent
Residential (Single & Multi Family)	125	19.8%
Commercial (Retail)	17	2.7%
Industrial & Transportation & Utilities	70	11.1%
Agriculture (Crops & Plantations)	159	25.2%
Recreational Lands (Public & Private)	11	1.8%
Other Urban or Built-Up Land	38	6.0%
Subtotal Developed Lands	421	66.6%
Mixed Forest	163	25.8%
Shrub & Scrub	10	1.6%
Mixed Wetlands	20	3.2%
Water	18	2.9%

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Subtotal Natural Lands	211	33.4%
Total	632	100.0%

Ms. Swan then showed a movie representing a ‘fly over’ of Borough of Bloomsbury. The movie offered an opportunity to focus on the local landscape, Ms. Swan pointed out the difference between this municipality and the prior one, which is why the ‘fly overs’ give the Council and public an opportunity to appreciate the unique characteristics of the municipality being considered. Ms. Swan then showed the land use ordinance maps for the Borough

Mr. Dougherty returned to the meeting at 5:29pm.

Ms. Swan then provided an overview of the Petition of Plan Conformance and the administrative record for Borough of Bloomsbury has follows:

12/8/09	Petition for Plan Conformance Submitted, Full Municipality
1/22/10	Petition Deemed Administratively Complete
2/1/10	Petition Posted to Highlands Council Website
4/26/11	Draft Consistency Report Sent to Municipality
5/18/11	Final Draft Report Posted to Highlands Council Website
6/2/11	End of Public Comment Period (Start 5/18/11)
6/10/11	Final Report Posted to Highlands Council Website
6/16/11	Highlands Council Public Hearing

Ms. Swan further noted that Borough of Bloomsbury had completed the Module submittals required under Plan Conformance and that this PowerPoint is posted to Council’s website as part of the record. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for Borough of Bloomsbury 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 June 2009. Staff RMP Consistency Finding is that Borough of Bloomsbury Highlands Municipal Build-Out Report is consistent with the RMP. With respect to Module 3, the Council staff found that Borough of Bloomsbury’s Fair Share Plan and Housing Element was consistent with the RMP.

Ms. Swan then continued with her presentation with respect to the Environmental Resource Inventory, Module 4. The Staff RMP Consistency Finding is that Borough of Bloomsbury’s Environmental Resource Inventory is consistent with the RMP.

With respect to the Master Plan Highlands, Module 5, Ms. Swan noted that the Staff RMP Consistency Finding is that Borough of Bloomsbury’s Master Plan Highlands Element is consistent with the RMP. With respect to the Highlands Area Land Use Ordinance, Module 6, Ms. Swan noted that the Staff RMP Consistency Finding is that Borough of Bloomsbury’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, and the Highlands Implementation Plan & Schedule. The Staff RMP Consistency Finding is that Borough of Bloomsbury’s Petition for Plan Conformance is consistent with the RMP.

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Ms. Swan then presented a summary of the public comments received and summary of the draft responses prepared by Highlands Council staff for Borough of Bloomsbury's Petition for Plan Conformance. The public comment period for Borough of Bloomsbury's Petition for Plan Conformance opened on May 18, 2011, and closed June 2, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Comments received from:

- Erica Van Auken, New Jersey Highlands Coalition

Comments submitted by: Erica Van Auken, New Jersey Highlands Coalition

Comment: The New Jersey Highlands Coalition supports Bloomsbury Borough's petition for plan conformance. The NJ Highlands Coalition requests that the Highlands Council monitor future redevelopment projects, such as the Historic Mill site, to ensure that they are consistent with the goals of the Regional Master Plan.

Response: The Highlands Council acknowledges the New Jersey Highlands Coalition's support for the Borough's Petition for Plan Conformance and will continue to work with the Borough in regard to redevelopment planning that is consistent with the Goals, Policies and Objectives of the RMP.

Ms. Swan then summarized the Staff Recommendation for Borough of Bloomsbury's Petition for Plan Conformance that it be approved with the following conditions:

- Adoption of a Checklist Ordinance
- Completed Environmental Resource Inventory
- Adoption of Completed Master Plan Highlands Element
- Completion and Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map
- Wastewater Management Plan
- Update/Development & Implementation of:
 - Stream Corridor Protection & Restoration Plan
 - Sustainable Economic Development Plan
 - Water Use & Conservation Management Plan
 - Stormwater Management Plan (updates only)
 - Habitat Conservation and Management Plan

Ms. Swan then reported the future Highlands Protection Fund grants for Borough of Bloomsbury as part of the Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:

- **Stream Corridor Protection Restoration Plan** to protect/restore streams and to mitigate the impacts of future land uses with a focus on the Musconetcong River, which borders the Borough.
- **Sustainable Economic Development Plan** to support the Borough's historic center area and include consideration of the Historic Mill site for redevelopment and enhancement of the surrounding business area, as well as, North Street and the Interstate 78 interchange area and agriculture retention possibilities.

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- **Water Use and Conservation Management Plan** to prevent, reduce or eliminate deficits in Net Water Availability, for one subwatershed which results in impaired stream flows and aquifer declines during drought periods.
- **Habitat Conservation and Management Plan** to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.

Ms. Swan acknowledged Chris Danis, Principal Planner, as Highlands staff liaison for the Borough of Bloomsbury.

Ms. Carluccio made a motion on the Resolution for Borough of Bloomsbury. Mr. Holtaway seconded it.

Mr. Schrier temporarily left the meeting at 5:37pm.

Council Comments

Mr. Visioli, Ms. Carluccio and Mr. Holtaway expressed their support for Bloomsbury Borough's Petition for Plan Conformance. Mr. Alstede had no comment.

Public Comments

Deborah Post, owns property in Chester Township –Ms. Post objects to the thought that the preservation of an old mill should receive taxpayer dollars prior to landowners being fully compensated. Ms. Post commented that she has restored many old buildings and believes building preservation in the absent of landowner compensation should be a private endeavor only.

Hal Danielson, owns property in Hampton Borough – Mr. Danielson asked about the definition of critical habitat and endangered species. Mr. Danielson asked where the census report is on these critical species and what are we protecting.

At the direction of the Chair, Ms. Swan responded that staff member Chris Ross, Senior Resource Management Specialist, verified the species information as NJDEP landscape data. Ms. Swan further noted that the exact species is never given out in order to protect the species.

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken commented that the New Jersey Highlands Coalition supports the Borough of Bloomsbury Petition for Plan Conformance.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey commented that Bloomsbury Borough is a small borough, 100% in the Preservation Area and very steep terrain so conformance is mandatory. Ms. Frey hopes that the Council supports this as well.

Hal Danielson, owns property in Chester Township – Mr. Danielson asked why the census is not available and open to the public as they were in the past. Chairman Rilee responded that his comment is duly noted.

Mr. Schrier returned to the meeting at 5:45pm.

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All members present voted on the Resolution by roll call. The Resolution was APPROVED 11-0.

At this time commemorative photos were taken as Chairman Rilee presented a framed certificate of Plan Conformance to Lisa Burd, Clerk/Administrator.

Messrs. Walton, Richko & Dougherty temporarily left the meeting at 5:46pm.

Mr. Walton returned to the meeting at 5:47pm.

Public Hearing and Consideration of Resolution– Petition for Plan Conformance by Borough of Bloomingdale, Passaic County

Messrs. Dougherty and Richko returned to the meeting at 5:49pm.

Ms. Swan began her PowerPoint presentation for the Borough of Bloomingdale. Ms. Swan presented photographs of Bloomingdale Borough so the Council could focus on this specific community and understand the past planning and protection initiatives of the borough. Ms. Swan presented background statistics and information for Bloomingdale Borough.

- Incorporated: 1918
- Population (2009 est.): 7,454
- Land Area: 5,917 acres/9.2 sq. mi.
- Total Forest: 4,328 acres
- Preserved Lands: 2,438 acres
- Wetlands: 322 acres

Ms. Swan presented significant Highlands statistics as they pertain to Bloomingdale Borough:

- Preservation Area Lands: 4,155 acres – 70%
- Planning Area Lands: 1,762 acres – 30%
- Protection Zone: 4,638 acres – 78%
- Existing Community Zone: 1,089 acres – 18% (Roads 3%)
- Forest Resource Area: 5,085 acres – 86%
- Highlands Open Water Protection: 3,162 acres – 53%
- Conservation Priority Areas: 1,956 acres – 33%

**Bloomingdale Borough
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	661	244	15.3%
Commercial (Retail)	81	2	1.4%
Industrial & Transportation & Utilities	53	7	1.0%
Agriculture (Crops & Plantations)	0	19	0.3%
Recreational Lands (Public & Private)	26	51	1.3%

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Extractive Mining	127	0	2.2%
Other Urban or Built-Up Land	13	9	0.4%
Subtotal Developed Lands	961	332	21.8%
Mixed Forest	666	3,295	66.9%
Shrub & Scrub	10	21	0.5%
Mixed Wetlands	91	231	5.4%
Barren Lands	5	3	0.1%
Water	30	273	5.1%
Subtotal Natural Lands	802	3,823	78.2%
Total	1,762	4,155	100.0%

Ms. Swan then showed a movie representing a ‘fly over’ of Bloomingdale Borough. The movie showed a municipality with forests and scattered development, in contrast to the previous municipalities.. Ms. Swan then showed the land use ordinance maps for the Borough.

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Ms. Swan then provided an overview of the Petition of Plan Conformance and the administrative record for Bloomingdale Borough has follows:

12/8/09	Petition for Plan Conformance Submitted, Full Municipality
1/22/10	Petition Deemed Administratively Complete
2/1/10	Petition Posted to Highlands Council Website
2/11/11	Draft Consistency Report Sent to Municipality
5/19/11	Final Draft Report Posted to Highlands Council Website
6/3/11	End of Public Comment Period (Start 5/19/11)
6/10/11	Final Report Posted to Highlands Council Website
6/16/11	Highlands Council Public Hearing

Ms. Swan further noted that Bloomingdale Borough had completed the Module submittals required under Plan Conformance and that this PowerPoint is posted to Council's website as part of the record. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for Bloomingdale Borough was completed and is dated September 2009. Staff RMP Consistency Finding is that Bloomingdale Borough Highlands Municipal Build-Out Report is consistent with the RMP. With respect to Module 3, the Council staff found that Bloomingdale Borough's Fair Share Plan and Housing Element was consistent with the RMP.

Ms. Swan then continued with her presentation with respect to the Environmental Resource Inventory, Module 4. The Staff RMP Consistency Finding is that Bloomingdale Borough's Environmental Resource Inventory is consistent with the RMP.

With respect to the Master Plan Highlands, Module 5, Ms. Swan noted that the Staff RMP Consistency Finding is that Bloomingdale Borough's Master Plan Highlands Element is consistent with the RMP. With respect to the Highlands Area Land Use Ordinance, Module 6, Ms. Swan noted that the Staff RMP Consistency Finding is that Bloomingdale Borough'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, and the Highlands Implementation Plan & Schedule. The Staff RMP Consistency Finding is that Bloomingdale Borough's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan then presented a summary of the public comments received and summary of the draft responses prepared by Highlands Council staff for Bloomingdale Borough's Petition for Plan Conformance. The public comment period for Bloomingdale Borough's Petition for Plan Conformance opened on May 19, 2011, and closed June 3, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system.

Input from Municipality: The Borough indicated that it will not regulate historic resources via the Highlands Area Land Use Ordinance; chose not to adopt Cluster Development standards; and

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decided not to include a Development Transfer Plan element in the Master Plan Highlands Element at this time.

Response: Edits needed to address these Borough determinations have been incorporated into the applicable Petition documents.

Comments Received From: Wilma E. Frey, Senior Policy Manager, New Jersey Conservation Foundation (NJCF), submitted a memorandum on behalf of the NJCF, the New Jersey Highlands Coalition, the Pequannock River Coalition, and the Sierra Club – New Jersey Chapter.

Comment: The memorandum supports Bloomingdale's Petition for Plan Conformance, particularly noting Borough conformance for both Planning and Preservation Areas, and opportunities to preserve and enhance significant Highlands water resources.

Response: The Highlands Council acknowledges and concurs with the comment.

Comment: The memorandum expresses concern with regard to the 180-acre "Meer Tract," a Prior Round Site included as a component of the Borough's Fair Share Plan, and the characterization of it as provided by the Highlands Council Final Report. It correctly describes the Highlands Resources that constrain much of the site, including Critical Wildlife Habitat, High Integrity Riparian Area, Highlands Open Waters (including wetlands and streams), Open Water Buffers, Forest in a Forest Resource Area, and Steep Slopes. It discusses a report (copy provided), entitled "Federal Hill: an Extraordinarily Environmentally Sensitive and Historically Significant Area" developed in regard to the property by the Bloomingdale Environmental Commission in 2003 and urges the Highlands Council to fully articulate the "constraints to any development on Federal Hill, the open space and historic preservation values of the site, and the substantial inconsistency with the RMP of the proposed development."

Response: The Highlands Council concurs with the findings of inconsistency with regard to Highlands Resource protections sought by the RMP and has amended the Final Consistency Report to incorporate more information concerning the Meer Tract. Extensive comments were submitted to the Council during the development of the RMP seeking reclassification of the site as an affordable housing site. The project was the subject of a February 28, 2007 Order granting a builder's remedy. The Council responded to these comments through the adoption of the RMP and retained the designation of the site in the Protection Zone. In addition, the RMP designated the site in the Conservation Priority Area (high and moderate) indicating that the site is a priority for open space protection. The Highlands Council conducted consistency reviews in response to a Notice of Appeal filed by Meer Bloomingdale Estates in the Appellate Division of the NJ Superior Court (later withdrawn). Preliminary and final site plan approval was granted by the Borough Planning Board on May 22, 2008. Despite the extent of Highlands resources potentially at issue, the Highlands Council acknowledges that the site is located in the Planning Area of the Highlands Region, and that the proposed project has obtained all necessary local and state approvals. Specifically, the project obtained NJDEP land use permits addressing environmental features on the site. In addition, the site is within an adopted sewer service area and received a treatment works approval from NJDEP authorizing a sewer connection as well as a permit authorizing a water main extension. Prior local and state approvals of this nature are not legally subject to the provisions of the RMP or of the municipality's (soon-to-be-adopted) effectuating Highlands Area Land Use Ordinance. Should changes occur that alter its protected approval status, the municipality and the Highlands Council will each have opportunity to reconsider the proposal. Absent such a change, the circumstances are

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such that the development continues to retain a “reasonable potential for development,” meaning that, however inconsistent with the RMP, it remains feasible at this time as a means to address the Borough’s housing obligations.

Vice Chairman Schrier noted when we have all seven modules completed in a municipality and in most instances deemed complete, is it possible to have a Petition come before Council if any of the modules are not deemed consistent or complete. Ms. Swan responded that the Council staff would not bring that Petition before the Council unless all seven modules are complete. Vice Chairman responded that perhaps it is a redundancy to announce each of the modules and to announce that they are completed. Ms. Swan responded that we have always done it as part of the public hearing and for public record. Ms. Swan referred the question to Mr. Borden. Mr. Borden responded that more importantly that it is consistent with the RMP so there are two levels, completeness and consistency.

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

- Adoption of Planning Area Petition Ordinance
- Adoption of Approved Checklist Ordinance
- Adoption of Completed Environmental Resource Inventory
- Adoption of Completed Master Plan Highlands Element
- Completion and Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map
- Wastewater Management Plan
- Compliance with Fair Housing Act (Law Division, Superior Court)
- This condition requires submission of updates on proceedings and Highlands Council review of any proposed changes to the Housing Element and Fair Share Plan.
- Update/Development & Implementation of:
 - Lake Restoration Management Plan
 - Habitat Conservation and Management Plan
 - Water Use & Conservation Management Plan
 - Stormwater Management Plan (updates only)
 - Land Preservation & Stewardship Program
 - Stream Corridor Protection & Restoration Plan
 - Septic System Management/Maintenance Plan

Ms. Swan then reported the future Highlands Protection Fund grants for Bloomingdale Borough as part of the Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:

- **Highlands Redevelopment/Center Planning** to investigate specified areas for Highlands Redevelopment Area designation, and to explore potential Highlands Center designation, in furtherance of Bloomingdale Vision Planning and Main Street Corridor Planning initiatives.
- **Sustainable Economic Development Master Plan Element** to be completed in conjunction with Highlands Redevelopment/Center Planning efforts.

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- **Habitat Conservation and Management Plan** to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
- **Lake Restoration Management Plan (Phase I)** to conduct preliminary assessment of limnological status and environmental integrity of Borough lakes to determine needs for protection/restoration.

Ms. Swan brought to the Council's attention a picture of a vernal pool located in Bloomingdale. Ms. Swan acknowledged Bloomingdale Borough's Zoning Officer, Daniel Hagberg present at the meeting. Ms. Swan also acknowledges Judy Thornton, Principal Planner and staff liaison for Bloomingdale.

Ms. Carluccio made a motion on the Resolution for the Borough of Bloomingdale. Mr. Richko seconded it.

Council Comments

Mr. Holtaway commented that this is an excellent plan and an area that has been developed the way Council would like to see it developed. Mr. Holtaway also noticed that this application has had the most water recharge area of any other Petitions the Council has seen.

Ms. Carluccio commented that when the Highlands Act was passed one of the most important reasons it passed was to protect the water supply for half of New Jersey. Ms. Carluccio commented that the graphics show why we exist. The constraints that Bloomingdale bumps up against are addressed in this plan and Ms. Carluccio wholeheartedly supports the Borough's application.

Public Comments

Daniel Hagberg, Zoning and Construction Official for Borough of Bloomingdale – Mr. Hagberg on behalf of the Borough wanted to thank Ms. Swan and the Highlands Staff. Mr. Hagberg stated that he has dealt with staff on several occasions and instead of hitting a bureaucracy of regulations the Highlands staff has been a guide and are always available and have made the Borough's life a lot easier.

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken commented that the New Jersey Highlands Coalition supports Bloomingdale Borough's Petition for Plan Conformance, but wanted to stress the importance of protecting the Meer Tract site and not developing it.

Deborah Post, owns property in Chester Township – Ms. Post commented if the Meer Tract is so environmentally valuable, why don't we put our money where our mouth is and preserve it at its full compensable value. Ms. Post further commented that if the developer made one small step he would be subject to the stifling death of Highlands Act strangulation and that is plain wrong.

David Shope, owns property in Lebanon Township – Mr. Shope stated that he has the same objection as he has for other Petitions who voluntarily opt into the Planning Area and thereby subject the residents who thought they had dodged the bullet regarding regulations. Mr. Shope comments that the municipality is subject to something that has not yet been determined and will be

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determined by Council and could be worse than what it is today. Mr. Shope described the Highlands process as welfare for planners.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey did raise the issue regarding Federal Hill because she wanted to be on the record that it is an inappropriate site for affordable housing and it is unfortunately a site that gives affordable housing a bad name. Ms. Frey commented that Passaic River Coalition and the municipality purchased a portion of the site for open space and made a major effort to try to protect the whole site but the developer and the Court intervened so we are stuck with this situation to be resolved outside this Council. Ms. Frey urges Council to approve this Petition as the upper two-thirds of the Bloomingdale is part of the water supply for the Wanaque Reservoir which is the largest reservoir and which serves the greatest number of people in northeastern New Jersey. Ms. Frey is hopeful that somewhere in the future this parcel may be purchased and used as open space.

Hal Danielson, owns property in Hampton Borough – Mr. Danielson says he keeps hearing about the water resources and stated that the amount of rainfall in New Jersey has substantially increased. Mr. Danielson also mentioned that Cornell University did a study that the Highlands Act is not needed because the amount of population that has left (heavy industry) and we still continue on with this scam. Mr. Danielson commented that the Legislature is based on lies and the funding is not there.

Chairman Rilee commented that the Highlands Act is the law of the State of New Jersey and we are acting in accordance with the law.

All members present voted on the Resolution by roll call. The Resolution was APPROVED 10-0.

At this time commemorative photos were taken as the Chairman Rilee presented a framed certificate regarding Plan Conformance to Zoning Office Daniel Hagberg.

Ms. Carluccio and Mr. Holtaway temporarily left the meeting at 6:15pm.

Public Hearing and Consideration of Resolution – Petition for Plan Conformance by Pohatcong Township, Warren County

Ms. Swan acknowledged Pohatcong Township's representatives present at the meeting: Mayor Steve Babinsky; Marc Metzger, Land Use Board Chairman; and Paul Gleitz, Planner. Ms. Swan also recognized Highlands Council Staff Liaison and Principal Planner Chris Danis.

Ms. Swan then proceeded with the PowerPoint presentation of the Pohatcong Township Petition for Plan Conformance. She presented photographs of Pohatcong Township so the Council could focus on the character of the community.. Ms. Swan presented background statistics and information for Pohatcong Township.

- Established: 1881
- Population (2009 est.): 3,319
- Land Area: 8,780 acres/13.71 sq. mi.

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- Farmland: 3,959 acres
- Preserved Lands: 3,431 acres
- Total Forest: 2,909 acres
- Wetlands: 195 acres

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

- Preservation Area Lands: 7,571 acres – 86%
- Planning Area Lands: 1,208 acres – 14%
- Conservation Zone – 5,757 acres – 66%
- Protection Zone – 2,038 acres – 23%
- Existing Community Zone – 483 acres – 6% (Roads 6%)
- Agricultural Priority Areas – 3,192 acres – 36%
- Highlands Open Water Protection – 2,424 acres – 28%
- Forest Resource Area – 1,637 acres – 19%

**Pohatcong Township
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	291	550	9.6%
Commercial (Retail)	130	14	1.6%
Industrial & Transportation & Utilities	117	120	2.7%
Agriculture (Crops & Plantations)	413	3,489	44.4%
Recreational Lands (Public & Private)	18	9	0.3%
Extractive Mining	0	109	1.2%
Other Urban or Built-Up Land	92	34	1.4%
Subtotal Developed Lands	1,060	4,325	61.3%
Mixed Forest	60	2,407	28.1%
Shrub & Scrub	50	341	4.5%
Mixed Wetlands	15	181	2.2%
Barren Lands	22	4	0.3%
Water	1	257	2.9%
Subtotal Natural Lands	149	3,191	38.0%
Total	1,208	7,516	99.4%

Ms. Swan then showed a movie representing a ‘fly over’ of Pohatcong Township. The movie offered an opportunity to focus on the unique character of the Township, the difference between the landscapes of the Preservation Area and Planning Area was noted, it was easy to see the developed areas in stark contrast to the open agricultural lands. The movie also assisted in focusing on available transportation infrastructure and an important view of development in adjoining municipalities which would be part of a more regional perspective. . Ms. Swan then showed the land use ordinance maps for the Township.

Highlands Center

Ms. Swan reported that the Highlands Council and Pohatcong Township collaborated to develop a Highlands Center for a portion of the Planning Area. The proposed Pohatcong Highlands Center

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includes mostly developed area north of Alpha Borough, between Route 122 and 22, and the partially developed area east of Alpha Borough that is south of Route 122 and north of Route 78, it consists of densely developed residential and retail areas, and the partially developed Industrial Zone area. The Pohatcong Highlands Center represents 7% of the total lands within the Township. The Highlands Center provides for areas of infill development and redevelopment and a mixed-use cluster development for the Industrial Zone. The agriculture land associated with the Highlands Center Industrial Zone is bordered by Route 78 and existing development in Pohatcong and Alpha Borough. The Conservation Zone resources in the Highlands Center are not identified as critical habitat and are adjacent to developed lands with utility and transportation infrastructure, as compared to the nature and extent of the Conservation Zone lands in the rest of the Township. The Township is interested in examining an intra-municipal TDR Plan to further protect Preservation Area lands within the municipality. Ms. Swan and Mr. Borden attended Alpha Borough's Council Meeting as they are interested in center designation and this links to the proposal for Pohatcong.

Pohatcong Map Adjustment

Ms. Swan reported that there are two ways of changing the Highlands mapping: 1) RMP Updates are factual corrections which Highlands Council Staff has the authority to change; and 2) Map Adjustments are policy based and decided upon by the Highlands Council. Map Adjustments must be made through a municipal petition and must meet the criteria set forth in the RMP. Ms. Swan noted that if Council approves this Petition, Council is also approving a Map Adjustment and a Highlands Center. Ms. Swan reported that Pohatcong Township's Petition includes a requests for a Map Adjustment for Block 93 Lots 4 and 5 (170 acres) known at the EAI site (Hamptons at Pohatcong). The project is in the Township's Affordable Housing zoning district, which is the product of prior round affordable housing litigation, and the project is in Township's approved Housing Element and Fair Share Plan presently under Court jurisdiction. The Highlands Council, on September 23, 2008, issued a Consistency Review of a proposed Water Quality Management Plan (WQMP) amendment finding numerous inconsistencies. The site is in the Conservation Zone (Environmentally-Constrained Sub-Zone) and the property is currently leased with mostly row-crop corn production.

Ms. Swan then showed a map of the 2008 local approval of Hamptons at Pohatcong. Preliminary subdivision and site plan approval allows for 401 single-family lots, two apartment buildings containing a total of 44 low and moderate-income affordable units, and one lot for future retail use. Would result in 81% developed lands and 19% undeveloped lands and project would generate 152,550 gpd of wastewater.

Ms. Swan reported that in response to the Council's findings of inconsistency, a revised plan consists of 242 residential units, consisting of 44 apartments to be deed-restricted for low/moderate income households, 122 single family homes, 76 town homes; and no future retail use. A Cluster approach resulted in - 26% developed lands and 74% undeveloped lands. This did not meet the RMP requirements for clustering on Conservation Zone lands and consequently required consideration as a Map Adjustment. On April 15, 2010, a Council work session conceptually endorsed the revised plan as a Map Adjustment with a 125-acre deed restriction.

The RMP's procedures for Map Adjustments address municipal policy issues raised during Plan Conformance. Map Adjustments allow for the adjustment of the RMP's Land Use Capability Zone

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Map to authorize the extension of infrastructure and the loss of Highlands resource areas. A Map Adjustment may be approved where the petition does not result in deleterious impacts to the affected or adjacent lands and among other criteria: Complies with the intent and purposes of the Highlands Act and the RMP and demonstrates that Highlands resource protection and smart growth planning principles have been addressed; Results in no net loss of Highlands resources or resource values; and Map Adjustments to create Existing Community Zone will be favorably reviewed which create a meaningful opportunity to provide affordable housing. Ms. Swan reiterated that a Map Adjustment is recommended for this site to implement for Pohatcong Township's plan to provide its fair share of affordable housing and that resources will be protected through a deed restriction.

Ms. Swan then provided an overview of the Petition of Plan Conformance and the administrative record for Pohatcong Township has follows:

12/8/09	Petition for Plan Conformance Submitted, Full Municipality
3/16/10	Petition Deemed Administratively Complete
3/24/10	Petition Posted to Highlands Council Website
4/6/11	Draft Consistency Report Sent to Municipality
5/18/11	Final Draft Report Posted to Highlands Council Website
6/2/11	End of Public Comment Period (Start 5/18/11)
6/10/11	Final Report Posted to Highlands Council Website
6/16/11	Highlands Council Public Hearing

Ms. Swan further noted that Pohatcong Township had completed the Module submittals required under Plan Conformance and that this PowerPoint is posted to Council's website as part of the record. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for Pohatcong Township was completed and is dated September 2009. Staff RMP Consistency Finding is that Pohatcong Township Highlands Municipal Build-Out Report is consistent with the RMP. With respect to Module 3, the Council staff found that Pohatcong Township's Fair Share Plan and Housing Element was consistent with the RMP.

Ms. Swan then continued with her presentation with respect to the Environmental Resource Inventory, Module 4. Ms. Swan noted that the Staff RMP Consistency Finding is that Pohatcong Township's Environmental Resource Inventory is consistent with the RMP.

With respect to the Master Plan Highlands, Module 5, Ms. Swan noted that the Staff RMP Consistency Finding is that Pohatcong 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 that the Staff RMP Consistency Finding is that Pohatcong Township's Highlands Area Land Use Ordinance is consistent with the RMP. Revisions to these two Modules would be made to incorporate the Highlands Center and Map Adjustment.

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, and the Highlands Implementation Plan & Schedule. The Staff RMP Consistency Finding is that Pohatcong Township's Petition for Plan Conformance is consistent with the RMP.

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Ms. Swan then presented a summary of the public comments received and summary of the draft responses prepared by Highlands Council staff for Pohatcong Township's Petition for Plan Conformance. The public comment period for Pohatcong Township's Petition for Plan Conformance opened on May 18, 2011 and closed June 2, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Comments received from:

- Carl Bisgaier on behalf of Regency at Pohatcong
- Erica Van Auken, New Jersey Highlands Coalition
- Helen H. Heinrich, New Jersey Farm Bureau
- Laura Oltman and Michael Newman, Eco Action Initiatives of Warren County

Comments Submitted by Carl Bisgaier on behalf of Regency at Pohatcong

Comment: Carl Bisgaier as counsel to the property owners and developer (the "Landowner") of lands situated in Pohatcong Township ("Pohatcong"), identified as Block 95, Lots 2 and 2.01 and approved for a development known as the Regency at Pohatcong (the "Regency"). The Regency is an approved, age-restricted development and could be constructed but for the need for an amended Wastewater Management Plan ("WMP"). Such an amendment would be approved if the Highlands Council agreed to a Map Amendment for this project. Based on the foregoing and the previous submissions on behalf of the Landowner, I request that the Highland's Council modify the Report to provide for a Map Amendment for the entire Regency property from a CZEC designation to an ECZ designation and to support the Pohatcong's filing of a WMP amendment to include the entire property and to allow the approved development. The Report is confusing and, potentially, contradictory. On the one hand, it acknowledges that a Map Amendment was sought for the Regency and, on the other, it suggests that in order for the Regency to be developable, a Map Amendment should be requested. Thus, Appendix B sets forth "Requests for RMP Updates". Enumerated paragraph 2 references Pohatcong's request for an update for the Regency from CZEC to ECZ. The Report later states that, for the Regency, "the municipality may propose and make use of other policies of the Regional Master Plan (to enable construction of the Regency) ... including, for example, the Map Adjustment program"

Response: The Highlands Council reviewed the documentation and details provided by Mr. Bisgaier regarding the Regency at Pohatcong project during the review of the Township's Petition. The Township's Petition for Plan Conformance did not include a request for a Map Adjustment for this project. However, the Township did request an RMP Update as set forth in Appendix B. There is an important distinction between a request for an RMP Update and a Map Adjustment. As specified in the RMP in Policy 6G1, an RMP Updates is based upon the receipt of "new, corrected or updated factual information and verification by the Highlands Council, when and where necessary to improve the accuracy of the RMP." The Highlands Council did not approve an RMP Update for the Regency site because there has not been new factual information to alter the accuracy of the RMP. In some cases an RMP Update will correct the Land Use Capability Zone Map to reflect development which has been built since the adoption of the RMP. In the case of Regency, the Conservation Zone remains appropriate for the site. In contrast to the RMP Update which is based solely upon factual updates, the RMP includes Policy 6G2 to allow petitions by municipalities for Map Adjustments to the Land Use Capability Zone Map. The Map Adjustment process allows for limited changes to the Land Use Capability Zone Map based on local planning factors where no net loss of resources or resource values will occur. As discussed below and more fully in Appendix

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C, the Highlands Council staff recommendation is to approve a Map Adjustment for the Hamptons at Pohatcong (EAI) site.

Mr. Richko asked if the developer is asking for the Map Adjustment, not the municipality. Ms. Swan responded that Pohatcong Township had asked for an RMP Update but when that was denied the Township did not request a Map Adjustment. She continued to explain that the commentor was confusing the distinction between an RMP Update and a Map Adjustment.

Comment: Mr. Bisgaier commented Hamptons at Pohatcong (EAI) achieved a cluster of only seventy three and one half percent (73.5%), less than that achieved by the Regency. Also, EAI is an adjoining site with far greater environmental issues. Actually, there are no environmental issues on the Regency, other than the existence of a marginal farming operation. Also, unlike EAI, the Regency approval calls a plan for the preservation of an historic Homestead, approved by the DEP. At this point, the Regency now is an infill site, bordering the development Borough of Alpha, EAI, an existing multifamily development and Interstate 78. Clearly, if any property in the Highlands Planning Area should be allowed to develop, it is this one. With regard to the scope of the Map Amendment, Pohatcong supports the Regency and is not opposed to a Map Amendment that would allow the construction of the approved project. The Alternatives submitted Pohatcong represent limited approaches to a Map Amendment based on assumptions that only sewer capacity from Pohatcong is available and that the Highlands Council constrains what Pohatcong may recommend. Pursuant to agreements with Pohatcong, the Regency is to receive any excess capacity not used by EAI. According to the Report, the EAI development now is reduced from 396 units to 242 units. The revised project obviously will require significantly less sewer capacity. Significantly, the Regency also has a substantial allocation of capacity from Alpha, which is well within the Borough's permitted capacity. Thus, ample sewer capacity is available for the approved project.

Response: Appendix C includes a recommendation to approve a Map Adjustment for the Hamptons at Pohatcong (EAI) site. The proposed Map Adjustment for EAI is proposed to redesignate to the Existing Community Zone a cluster-design development area with the rest of the parcel to remain as Conservation Zone – Environmentally-Constrained Sub-Zone. As specified in the RMP, Objective 6G2b the “Council will look most favorably upon ECZ petitions that create a meaningful opportunity to provide affordable housing.” The Map Adjustment will authorize the construction of affordable housing on the EAI site (of the 242 total units, there are 44 affordable housing apartments, 122 single-family homes and 76 townhomes). Pohatcong Township included the EAI project in the April 26, 2010 municipally-adopted Housing Element and Fair Share Plan. In contrast to the EAI site, the Housing Element and Fair Share Plan does not include the Regency project as a mechanism to meet Pohatcong’s affordable housing obligations. The EAI project has received considerable scrutiny by the Highlands Council. The project design has been significantly revised in response to a Highlands Council September 23, 2008 Consistency Review, which resulted from consideration of the applicant’s proposed Water Quality Management Plan (WQMP) amendment by NJDEP. The September 23, 2008 consistency determination concluded that the proposed development was inconsistent with the RMP. In response, the EAI project was modified to propose a cluster development design to address the inconsistencies and provide nearly 74% in open space lands. In contrast to the scrutiny of the environmental issues on the EIA site, the Regency site has yet to be deemed appropriate for development.

Comments submitted by: Erica Van Auken, NJ Highlands Coalition

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Comment: The New Jersey Highlands Coalition (Coalition) supports Pohatcong Township's petition for plan conformance and the proposal for development of a Highlands Designated Center. However, because of the large size of the Center and the intensity of the proposed projects we request that the Council and the township delay center designation until the Council is able to coordinate a single Highlands Center incorporating parts of both Pohatcong and Greenwich Townships. Greenwich has yet to reach this stage of conformance but has an Existing Community Zone that borders Pohatcong's ECZ; because of this there is a great opportunity for coordinated inter-municipal planning fostered by the Highlands Council. The Coalition appreciate Pohatcong Township's attempt to limit future development of the Hamptons at Pohatcong to the Highlands Designated Center, but due to the presence of extensive karst limestone and the instability of the bedrock we continue to believe that this site is inappropriate for such a dense project. The site is part of the Alpha/Pohatcong Grasslands, a Natural Heritage Priority Site, and there is documented presence of threatened and endangered grassland bird species at this location. Because of the presence of these rare species the Coalition continue to feel that this site should not be developed. In the event that development proceeds, however, we urge the Council to ensure that there is no net loss of this habitat and that effective mitigation is achieved. To consider placing a solar farm on the reserved open space of the Hamptons site would be highly inadvisable, as it would destroy the grassland bird habitat that exists there now.

Response: The Highlands Council acknowledges the New Jersey Highlands Coalition's support for the Township's Petition for Plan Conformance and the proposed Highlands Center designation. With respect to the comment to delay approval of the Highlands Center pending the Council's review of the Petition filed by Greenwich Township, the Council will continue to work with the Township to examine the potential for a Highlands Center Plan employing both a local and multi-municipal approach regarding utility capacity, water availability, resource protection, historic and cultural resource protection, economic development, transportation planning and community enhancement consistent with the Goals, Policies and Objectives of the RMP. With respect to the Hamptons at Pohatcong (EAI) site, the Highlands Council and NJDEP in the review of a proposed Wastewater Management Plan amendment examined the issues of carbonate rock for the site and the impact of stormwater. There has been some confusion with respect to the Hamptons at Pohatcong site and it serving as habitat for grassland bird species. While at one point the Landscape data had mapped the site as "Landscape Rank 4 upland sandpiper", the NJDEP has since updated the Landscape data. According to the NJDEP "in 2005, the site was mapped as part of the Alpha Grasslands on the Department's GIS data layer for Natural Heritage Priority Sites. This data layer was subsequently revised and the Alpha Grasslands no longer includes this site." The Hamptons at Pohatcong site has been in agricultural use (specifically corn production) for 50 years and does not function as grassland bird habitat. The current version of the NJDEP Landscape data does not identify the site as critical habitat.

Comment: The Coalition would like to see development limited to block 93 lots 4 & 5 instead of there being any building on block 95 lots 2 & 2.05 (Regency at Pohatcong, Toll Bros.). Lots 4 & 5 are closer to the Existing Community Zone and existing public community water systems and sewerage facilities, whereas lots 2 & 2.05 are in greater proximity to a Conservation Environmentally Constrained Subzone. We have also learned that Toll Brothers, whose plans were approved by the Township, has announced that it will not renew its option to develop the property. Therefore, it appears unnecessary and counterproductive to revise this parcel from Conservation Environmentally Constrained Subzone to Existing Community Zone. The Coalition and NJ Conservation

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Foundation support the downsizing of the proposed development on block 93 lots 4 & 5 from 170 acres to 45 acres with the remaining acreage deed restricted as open space. The Coalition and NJ Conservation Foundation have concerns about the proposal for Blocks 75 Lots 1, 1.01 & 75.01 Lot 1. We understand that this development is to be incorporated into the Highlands Center, however, there is significant development proposed (Longhorn Steakhouse, Super Wal-Mart, Wawa, and White Castle) for these three lots. Although the site includes some Existing Community Zone and is adjacent to an Existing Community Zone, half of the whole site is listed as a Conservation Zone and a Conservation Environmentally Constrained Subzone. The development in the Industrial Zone block 78 lot 1 is understandable as the last large parcel in the industrial zone – however, the entire lot is located in a Conservation Zone and a Conservation Environmentally Constrained Subzone with little adjacency to the Existing Community Zone. There is also a historic building, albeit in disrepair, on this parcel. Ideally, we would like to see the historic portion of the site reused, and the integrity of the structure restored.

Response: In working with the Township on the proposed Map Adjustment for the Hamptons at Pohatcong (EAI) property supports its ability to increase affordable housing in the Township through a reduced development footprint and recognizes that in support of the reduced development and enhanced deed restricted lands on the property the Township has requested that they shall allow for consideration of other non-permanent development, such as the inherently beneficial uses of wind, solar or photovoltaic energy facilities in accordance with local and state requirements as detailed in the deed restriction prepared by the Township for the property, and approved by the Highlands Council. The Council acknowledges the preference by the Highlands Coalition for development on Block 93 Lots 4 and 5 the Hamptons at Pohatcong (EAI) site as indicated by the reduced cluster design included in the Map Adjustment as compared to development at Block 95 Lots 2 and 2.05 the Regency at Pohatcong (Toll Brothers site). The Council is aware of the ongoing redevelopment /development of the Super Wal-Mart project area which has approved utility allocation, required NJDOT and NJDEP permits and local approvals. The Highlands Act requires to “encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof” (Section 10 Goals of RMP for the Planning Area). The area is adjacent to and is a logical extension of the development pattern in Greenwich Township and reflects existing development pattern and aligns transportation routes & local and regional economic development initiatives. The Conservation Zone lands associated with the Highlands Center represent 3% (173 acres) of the Township; the entire Planning Area Conservation Zone lands represent approximately 10% or 574 acres the 5,757 acres of Conservation Zone lands in the Township. The Highlands Center area incorporates 36% of the developed lands in the Planning Area and represents 7% of the Township lands. The agriculture land associated with the Highlands Center Industrial Zone is bordered by Route 78 and existing development in Pohatcong and Alpha Borough. The Conservation Zone resources in the Highlands Center are not identified as critical habitat and are adjacent to developed lands with utility and transportation infrastructure, as compared to the nature and extent of the Conservation Zone lands in the rest of the Township. The Highlands Council and Pohatcong Township recognize the existing Industrial Zone undeveloped area and its relationship to the locally important historic site and have incorporated a cluster design

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development approach for this area that is supportive of historic and cultural resources, local economic development and the potential to evaluate the use of an intra-municipal Transfer of Development Rights Program to allow for further protection of Highlands Resources in the Preservation Area of the Township.

Mr. Walton left the meeting at 6:42pm.

Comments submitted by: Helen H. Heinrich, New Jersey Farm Bureau

Comments: With almost 2/3 of the Township's acreage in agricultural use as determined by eligibility for Farmland Assessment taxation, NJ Farm Bureau take note of the municipality's desire to bring all of its acreage into conformance with the RMP, including the Planning Area. This may have significant benefits for current and future farmland owners and farm operators. The fact that the municipality will spend time in further development of an Agricultural Retention Plan and a Sustainable Economic Development Plan can have positive impacts on the business of agriculture. The production of corn and soybeans today could evolve into any one of many other agricultural commodities as markets change in the future. One such area might be an increase in equine agriculture and the many businesses and land uses associated with it. This will be hampered by the fact that "riding academies" are not considered a permitted agricultural use by Pohatcong's proposed Land Use Ordinance (p. 75). There is no definition provided for such facilities so it is impossible to determine whether the township intends to prohibit those activities that recently have been granted Farmland Assessment and a Right to Farm according to certain definitions. It is hoped that your staff will guide Pohatcong's leaders and professional planners in clarifying this issue in their further agricultural planning activities to ensure that at least this potential for future viability is not curtailed. A second cautionary note is the fact that many grassland birds are said to be targeted as priority species for habitat protection. Corn and soybean land is not grassland bird habitat unless it is dedicated to production of warm season grasses or early succession voluntary vegetation. This is not viable production agriculture or an acceptable substitute for field crop or other commodity production. As many as 6 of the wildlife species of concern in the township according to the Environmental Resource Inventory are grassland bird species. The farms in the Conservation Zone must have agriculture as their top priority, not an increase of wildlife habitat.

Response: The Highlands Council acknowledges the NJ Farm Bureau's support for the Township's Petition for Plan Conformance and support for development of an Agriculture Retention/Farmland Preservation Plan and Sustainable Economic Development Plan. The Highlands Council will continue to work with the Township in regard to Farmland Assessment and Right to Farm conditions to ensure that the Goals, Policies and Objectives of the Regional Master Plan are implemented. The protection of Highlands resources in the Township will be supported by the development of a Habitat Conservation and Management Plan. The development and implementation of both Agricultural Retention and Habitat Conservation and Management Plans can complement each other so as to best protect sensitive wildlife habitats within the Township and, at the same time, enhance the opportunities for diversification of farming activities. As noted above, while at one point the Landscape data had mapped the Hamptons at Pohatcong site as "Landscape Rank 4 upland sandpiper", the NJDEP has since updated the Landscape data. The site has been in agricultural use (specifically corn production) for 50 years and does not function as grassland bird habitat. The current version of the NJDEP Landscape data does not identify the site as critical habitat. That notwithstanding, grassland habitats can be restored to some extent through the rotation of field crops, seasonal timing of field preparation and harvests and selectional sowing of warm season hay crops. The Highlands Council supports the efforts of farmers to pursue the

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Natural Resources Conservation Service's (NRCS) Wildlife Habitat Incentive Program (WHIP) which is a voluntary program for conservation-minded landowners who want to develop and improve wildlife habitat on agricultural land.

Comments submitted by: Laura Oltman and Michael Newman

Comments: Overall, Pohatcong Township's petition to conform to the Highlands Regional Master Plan is a positive step in protecting important natural and scenic resources and curbing inappropriately intensive development in the area surrounding Phillipsburg. It seems like the true center of this region of 6 municipalities in the Phillipsburg sewer service area is Phillipsburg. Anything that would curb sprawl on the periphery of the city while directing badly needed economic investment to the actual center of Phillipsburg would be a good thing. I would like to point out some aspects of the Petition that warrant further consideration. Regarding the request to the Township's request to update the mapping of Block 95, Lots 2 & 2.05 (Regency at Pohatcong), the developer, Toll Bros., whose plans were approved by the township, has recently announced it will not renew its option to develop the property. Given this turn of events, it seems unnecessary and counterproductive to revise this parcel from CZEC to ECZ. The characteristics of the CZEC have not changed on this site but will if it is allowed to be developed as an ECZ. Furthermore, it is part of the complex of farm fields that form the important grassland bird habitat in Pohatcong Township which is recognized in the ERI contained in documents submitted by the township as part of this process, as is also the site of the Hamptons development. Attached are documents substantiating that T&E grassland birds have been found on both of these sites. There is also an e-mail confirming that these sightings should have been included in NJDEP Landscape maps. In light of this information, it seems inadvisable to consider placing a solar farm on the open space of the Hamptons site. Grassland birds require vast areas of open space. The development of the Hamptons and Regency sites combined could cause a loss of 9% of NJDEP designated grassland habitat in Alpha and Pohatcong Township.

Response: The Highlands Council acknowledges the Eco Action Initiatives of Warren County support for Pohatcong Township's Petition for Plan Conformance and the development of a Highlands Center for this region of Warren County. The Township's Petition for Plan Conformance did not include a request for a Map Adjustment for Block 95 and Lots 2 and 2.01 in response to Highlands Council RMP Update Summary of Findings letter dated March 15, 2010. The Highlands Council has been made aware of the change in status regarding Toll Brothers option to develop the Regency at Pohatcong property. As noted above, while at one point the Landscape data had mapped the Hamptons at Pohatcong site as "Landscape Rank 4 upland sandpiper", the NJDEP has since updated the Landscape data. The site has been in agricultural use (specifically corn production) for 50 years and does not function as grassland bird habitat. The current version of the NJDEP Landscape data does not identify the site as critical habitat. That notwithstanding, grassland habitats can be restored to some extent through the rotation of field crops, seasonal timing of field preparation and harvests and selectional sowing of warm season hay crops. The Highlands Council supports the efforts of farmers to pursue the Natural Resources Conservation Service's (NRCS) Wildlife Habitat Incentive Program (WHIP) which is a voluntary program for conservation-minded landowners who want to develop and improve wildlife habitat on agricultural land. The protection of Highlands resources in the Township will be supported by the development of a Habitat Conservation and Management Plan.

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Comments: Regarding the Township's requests for Warren Business Park, in addition to being farmland, it also contains historic farm buildings that are not listed in the Township's ERI. The site is known locally as Gramana Farms. While it has long been zoned by the Township as an industrial site and it has long been in the Township's sewer service area, it would be appropriate to somehow protect the historic buildings, if not the land itself. Most of the areas of the Township that are available for more intensive development are on karst terrain. Attached is an excerpt of a report submitted to the NJDEP by Margaret Snyder, P.E. on behalf of Eco Action Initiatives detailing some of the issues related to development on karst terrain and more specifically on the Hamptons site. The Highlands Council should give serious consideration to this complex issue and what kinds of procedures are required to insure that development on karst is feasible.

Response: The Highlands Council and Pohatcong Township recognize the existing Industrial Zone (Warren Business Park) undeveloped area and its relationship to the locally important historic site and have incorporated a cluster design development approach for that area that is supportive of historic and cultural resources, local economic development and the potential to evaluate the use of an intra-municipal Transfer of Development Rights Program to allow for further protection of Highlands Resources in the Preservation Area of the Township. The presence of carbonate rock for the site is included in the Township's existing planning and ordinance documents and has been identified by the Highlands Council. Carbonate rock development conditions are incorporated into the Highlands Master Plan Element and Highlands Land Use Ordinance and require through geotechnical investigations the evaluation of karst features in support of potential development activities.

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

- Adoption of Approved Checklist Ordinance
- Adoption of Planning Area Petition Ordinance
- Adoption of Completed Environmental Resource Inventory
- Adoption of Completed Master Plan Highlands Element
- Completion and Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map
- Wastewater Management Plan
- Update/Development & Implementation of:
 - Highlands Center Planning
 - Highlands Redevelopment Planning (for areas outside of the Highlands Center area; and including the Preservation Area)
 - Sustainable Economic Development Plan
 - Agricultural Retention Plan
 - Water Use & Conservation Management Plan
 - Stormwater Management Plan (updates only)
 - Habitat Conservation and Management Plan
 - Land Preservation & Stewardship Program
 - Septic System Management/Maintenance Plan
 - Stream Corridor Protection & Restoration Plan

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Ms. Swan then reported the future Highlands Protection Fund grants for Pohatcong Township as part of the Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:

- **Highlands Center Designation Planning** to initiate planning to assist with the implementation of the Pohatcong Township Highlands Center designation.
- **Highlands Redevelopment Planning** to examine potential for redevelopment and revitalization areas consistent with the Regional Master Plan that are outside of the Highlands Center and within the Preservation Area.
- **Sustainable Economic Development Plan** to evaluate local and regional economic conditions and the development of an Implementation Strategy to meet both the Highlands Council and Township's sustainable economic development goals.
- **Water Use and Conservation Management Plan** for one HUC14 subwatersheds with moderate Net Water Availability deficits
- **Agriculture Retention Plan** to improve the sustainability of agricultural businesses, building on the Townships successful preservation efforts
- **Habitat Conservation and Management Plan** to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
- **Stream Corridor Protection Restoration Plan** to protect/restore streams and to mitigate the impacts of future land uses.

Mr. Borden provided Council a litigation status on the Hampton at Pohatcong project since there are attorneys present today and they will probably make comments. Mr. Borden commented that when Council adopted the RMP Toll Brothers and other affordable housing developers sued the Council and those matters are still pending. Toll Brothers claimed that the Highlands RMP improperly designated the site as being environmentally constrained and the matter is still in litigation. Toll Brothers also filed an action against NJDEP regarding Waste Water Management Plan and that matter was remanded to the NJDEP. In January of this year, NJDEP issued a determination specifying that there is additional environmental analysis that needs to occur before any decision can be made on sewer service. Toll Brothers has since withdrawn from the contract for the site and the case but the underlining property owners are still being represented in Court.

Mr. Holtaway made a motion on the Resolution for Pohatcong Township. Ms. Richko seconded it.

Council Comments

Mr. Alstede asked what the justification under the Highlands Act or the RMP for the Council to allow the solar farm on the site. Mr. Borden responded that the Highlands Act was amended in 2010 to amend the issue regarding solar facilities which provided authority to address these facilities in the Preservation and Planning Areas. Mr. Borden stated that a clarification in the Highlands Act specifies that only the footings of solar panels are considered impervious surfaces so the panels themselves are not considered impervious. This amendment modified the requirement limiting a site to 3% of impervious cover. Mr. Borden further stated that this particular project is in the Planning Area so it is not subject to NJDEP's rules regulating major Highlands Development. Mr. Borden added that what the town requested and what Council staff recommended is that the EAI

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site be deed restricted and that deed restriction still be required but that these types of activities be allowed as a condition of that deed restriction, such that additional development would not occur on the site, but energy or solar panel type of uses would be permitted uses on the deed restricted property.

Mr. Francis stated that New Jersey has passed a new energy master plan and new legislation amending the MLUL and in that master plan there is a current solar panel component for solar installations and the MLUL the burden to obtain local approvals is more likely as they are deemed inherently beneficial.

Mr. Alstede asked if Council is suggesting as a policy that Council views agricultural and renewable energy as equal. Ms. Swan believes Council would have to look at the unique circumstances pertaining to any application before Council. Ms. Swan noted the importance that it is in the Planning Area, which is critical. Also, the background on this is that the applicant sought to find funding for the preservation of the site so that the project would be viable. When the applicant was not able to find funding, the applicant examined this opportunity for solar. She pointed out that the Map Adjustment is not a cluster under the RMP as it did not meet the requirements and thus Pohatcong Township requested a Map Adjustment so the land not being developed does not fall under the open space or agricultural requirements for clustering under the RMP. The Council may make your own determination if you would allow for solar on this site and consider this as part of the Petition.

Chairman Rilee asked Ms. Swan if her use of the word “allow” gives the municipality permission to go before the local Land Use Board or bypass the Plan. Ms. Swan responded that as part of Township’s Petition today the Council was being asked to approve the Map Adjustment authorizing the develop on a small portion of the site with the open lands being deed restricted so when the solar use ended the land would be protected and could return to agriculture or open lands.

Vice Chairman Schrier asked if this would require revisions to the RMP in this process. Ms. Swan responded that since it is in the Planning Area it is not subject to major Highlands Development and as Mr. Borden advised the amendment to the Highlands Act only captures the footings as impervious surface.

Ms. Carluccio asked why Council is considering the Highlands Center designation now rather than as a second step of the process. Ms. Swan responded that Pohatcong Township has done a lot of study and looked at capacity, the constraints and the potential for growth. Ms. Swan further stated when Council staff works through the Wastewater Management Plan (WMP) Pohatcong can determine the exact growth, but it would all occur within the Center to meet their goals. Ms. Carluccio asked if Pohatcong knows they can meet their WMP goals already. Ms. Swan concurred that Pohatcong has done that work to examine capacity.

Ms. Carluccio had concerns about the Map Adjustment meeting the grassland guidelines, karst conditions and the Tier 1 and Tier 2 wellheads on the site. Ms. Carluccio commented whether Council is jumping the gun on this Map Adjustment or is it somehow an integral part of the entire application. Mr. Borden responded that Council staff has done significant environmental analysis on this site and worked closely with NJDEP on the consideration of a WMP on the site. Council

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staff and NJDEP had numerous meetings and both determined that there are no habitat values on this site and in terms of karst geology, NJGS has examined the karst issue and examined the stormwater basin associated with the development and found that the stormwater was properly designed on the site and would be protected for impact to karst geology as the remaining of the site would be deed restricted. Council staff feels confident that the deed restriction will satisfy the stormwater design. Ms. Carluccio noted in particular the non-mandatory component regarding Highlands Redevelopment Planning which includes an allocation to evaluate potential redevelopment and revitalization opportunity that may exist outside of the proposed Pohatcong Township Highlands Center and within the Preservation Area. Ms. Swan responded that grant funding to look at it and to see if there are certain sites for redevelopment potential but the Township would come back to the Council for approval. Ms. Carluccio stated that she does see some positives with the Petition and that she is prepared to support this Petition but still has concerns.

Mr. Holtaway temporarily left the meeting at 7:00pm.

Mr. Alstede asked if Council is now creating policy that solar fields are considered agricultural or environmental protection under the cluster provision of the RMP. Ms. Swan responded that Pohatcong did not meet the cluster provisions so Council did not approve it as a cluster and that is why staff brought it before the Council in April of 2010 as a concept study for a Map Adjustment. Mr. Alstede had concerns of the amount of solar on preserved farmlands and he is not sure is it our goal to create solar fields or is it our goal to direct solar on rooftops rather than taking away land. Mr. Alstede was not comfortable supporting the entire tract to have solar.

Mr. Holtaway returned to the meeting via telephone conferencing at 7:04pm.

There was then Council discussion regarding granting municipality to permit solar fields on open lands, etc. Mr. Borden stated that the Energy Master Plan was incorporated within the RMP by reference which has a strong support for solar energy as does Governor Christie's Energy Master Plan.

Vice Chairman Schrier temporarily left the meeting at 7:06pm.

Ms. Swan commented Pohatcong has a unique set of circumstances that Council will have to consider. Chairman Rilee noted that this project is in the Planning Area and asked if the ability to have the solar is a trade-off that led Pohatcong to conform in the Planning Area. Ms. Swan specifically stated that this certainly was not a trade-off and that the Council does not negotiate in that way with municipalities. This Map Adjustment was initiated as a municipal policy request and brought in concept to the Council previously to address very unique circumstances and the solar issue was requested by the municipality in recent comments. Mr. Alstede had further questions regarding this project. Ms. Swan invited Ms. Purcell to speak from the Department of Agriculture.

Monique Purcell, Department of Agriculture welcomed all new members. Ms. Purcell commented that the first thing we need to do is not call the solar project a solar 'farm'. There is a difference between a solar array versus solar on farms to be used for farm operation. To answer Mr. Alstede's question, a farmland owner could come in with a solar but the Solar Wind Biomass Law did set up

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some parameters under which a farmer could use renewable energy on their farm to a certain extent and that extent cannot generate more than 2 megawatts or use more than 10 acres of land. If they exceeded that they are no longer considered agricultural solar, and they no longer qualify for farmland assessment and they are now something else. She stressed support for the Highlands Center designation and the Petition and explained that it seemed like it is an economic decision to make the project viable. Mr. Alstede noted that Department of Agriculture puts limits on how much can be solar. Chairman Rilee asked what the Department of Agriculture limits. Ms. Purcell responded that it is 1% of the farm or 110% of last year's energy needs on preserved farms but it is different than this application which is not a preserved farm.

Public Comments

Chairman Rilee asked if any representatives from Pohatcong Township wished to speak.

Marc Metzger, Land Use Board Chairman – Mr. Metzger thanked Council for this enlightening opportunity to present our township to Council with all its intricacies. Mr. Metzger also thanked the Highlands staff for their work. Mr. Metzger's experience with the Land Use Board is that virtually everything the Township has confronted in the 6-7 years on this site has been difficult. Mr. Metzger would like the opportunity to speak again since there are others people present today who may speak.

Paul Gleitz, Planner – Mr. Gleitz commented that the Township passed an ordinance addressing solar and wind and incorporated freestanding solar on existing impervious surfaces, as there is the 22 corridor so they are encouraging roof top, parking lot, detention basins and existing areas and developed. On this particular site this is a court mandated affordable housing site. Those 44 rental units help address prior round and future round obligations whether they use the prior COAH build out numbers or the Highlands build out numbers. They did try to go after open space funding to preserve open lands. This is not a preserved farm and to support the cluster provisions without the compensatory increase density on those cluster areas the Township is looking at solar so as a way to make sure the entire process works so they have minimal cluster development, affordable housing obligations and a creative way to provide a non-permanent development. They allow 80% of the site to be used and require the applicant to address scenic vistas and scenic impact areas that are identified on maps. They have drafted a pretty comprehensive draft for these types of installation.

Deborah Post, owns property in Chester Township – Ms. Post wholeheartedly agrees with the thought that no town should be coerced to do anything however the entire Highlands Act is a monstrous coercion. Preservation Area conformance is mandatory and Planning Area conformance is voluntary. The voluntary municipal act brings with it additional harm to Planning Area land owners. It is not unreasonable to require a price for facilitating this additional harm of Planning Area conformance in the form of some TDR receiving area designation otherwise you are legitimizing the COAH bribe for 100% opt in. Ms. Post urged Council to vote no for Pohatcong's Petition as it includes Planning Area opt-in without a designated TDR Receiving Zone.

David Peifer, Association of New Jersey Environmental Commission - Mr. Peifer commented that he supports this application but has concerns about the solar issues and agreed with Mr. Alstede. Mr. Peifer suggested that Council limit the amount of surface that could be covered along

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the guidelines similar to the Department of Agriculture limits. Council needs to balance this alternate energy versus farmland question. Ms. Peifer has been asking for an energy plan from this Council. Mr. Peifer made note that the Energy Master Plan has not yet been adopted as it is going through a long comment period. Mr. Peifer commented that reports on the karst analysis were not made available.

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken supports the Petition and recognizes that it is a bit complicated but encourages Council to support it.

Mr. Alstede temporarily left the meeting at 7:29pm.

Steve Babinsky, Mayor of Pohatcong Township – Mayor Babinsky stated that at one point in time EAI was 800 houses and the Township was working really hard with them. EAI wanted to preserve the property as farmland but the money was not there. Mayor Babinsky further stated that EAI was even willing to take a discount. EAI came back to the Township with a reduced development plan and the Township worked to put together a solar ordinance. Mayor Babinsky noted that no one was coerced into doing this.

Mr. Alstede returned to the meeting and Mr. Mengucci temporarily left the meeting at 7:31pm

Helen Heinrich, New Jersey Farm Bureau – Ms. Heinrich stated that she originally supported the Petition as noted in her comments but is concerned with the clusters and the balance of the land as Mr. Peifer noted in his comments.

Richard Hoff – Attorney for the Regency at Pohatcong – Mr. Hoff urges Council to reconsider the recommendations of Council Staff, allow the Township's proposed Map Adjustment for the Regency property to move forward and let the parties consummate that the settlement agreement which was their intent before the Highlands Act. The RMP created more stringent requirements in the Planning Area. Mr. Hoff further urged the Council to take that development that was appropriate for preservation in the settlement and keep it in Preservation Area and the development in the settlement agreement does not constitute intense development. He argued that the site is appropriate for development given its proximity to existing development and Rt. 78 and asked that the procedural defects not hinder the approval of this project.

Mr. Mengucci returned to the meeting at 7:34pm.

David Shope, owns property in Lebanon Township – Mr. Shope reiterated his belief that a very effective tactic of coercing municipalities with Planning Area lands is what he termed "the COAH bribe", if a municipality opts in to the Planning Area. Mr. Shope also commented that before this Council accepts this Petition it should come with proposal for accepting TDRs and this plan should be viewed in concert with the application for a Highlands Center.

Mr. Holtaway left the meeting via telephone conferencing at 7:40pm.

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Wilma Frey, New Jersey Conservation Foundation – Ms. Frey agrees with Mr. Alstede on the solar installation and that there should be a partial acquisition to preserve the site. Ms. Frey stated that forest and farmland should be protected.

Hal Danielson, owns property in Hampton Borough – Mr. Danielson commented on the species seen on the site and whether the species are nesting in the area or if the species are transient. Mr. Danielson wanted to know the status of the birds.

Neil Yoskin, representing EAI Investments – Ms. Yoskin wanted to clarify the circumstances under which this area (125 acres) was proposed for preservation. He echoed the comments by the Mayor. At this point all his client wants to do is minimize their losses and there were two ways to do that: 1) find someone that might acquire the property as open space or 2) allow solar use on the site. As staff has explained this is a very case specific and site use of solar and he reminded Council that the solar array would not occupy the entirety of the open area. There is no guarantee after funding that use will continue and his understanding that solar arrays are bonded and the bond provides for the removal of the improvements after 15 years. This is not grassland habitat and there is nothing to say that solar arrays cannot be installed that are compatible to some degree with habitat suitability for grasslands. He wants the Council to understand that this was a last series of options and also remind that property is not deed restricted today. This would be a crafted deed restriction and worked on by all interested parties to make sure it is a case specific circumstance and would not set a precedent.

Elliot Ruga, New Jersey Highlands Coalition – Mr. Ruga commented that after hearing Mr. Yoskin, he is reminded that he has been commenting on this development since 2008 as a member of the public. Mr. Ruga further stated that this is the closest this municipality and the interested parties who have a stake in the site have had on what happens in Pohatcong and what can happen. Mr. Ruga stated that to deprive Pohatcong of this opportunity would be a step backwards for people who have come together with an agreement.

Marc Metzger – Mr. Metzger commented on the issue of karst and that approximately 200 holes have been drilled on the property. A huge amount of studies have been completed and based on that a mitigation plan was put into place on how to deal with anything that comes up. This plan was part of the EAI project and the analysis is available to the public. The Alpha wellhead with the shifting of the EAI to the north even with the potential of solar arrays you will still get water recharge. Mr. Metzger stated that the lifetime of solar right now is 20-25 years. Mr. Metzger wanted to reiterate that they are not being coerced and are coming into this plan with eyes open and have been working for years on this project. They are sandwiched between the Courts, the NDEP issues, and Phillipsburg. This project allows for flexibility. As a citizen, Mr. Metzger noted that the Land Use Board does not have a choice and they are responsible to take the application and move it forward.

Chairman Rilee announced a quick break at 8:04pm.

The meeting was reconvened at 8:09pm and Chairman Rilee asked for a motion to carry the public portion of the Petition to the next meeting because of the number of members now present and

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quorum concerns. Mr. Richko agreed with Chairman Rilee and hopes it will be first on the next agenda.

Mr. Mengucci made a motion to carry the public portion of this Resolution to the next meeting. Mr. Visioli seconded it. All members present voted to carry the Resolution by roll call. The motion was carried by the majority.

Resolution – Authority For Highlands Plan Conformance and Highlands Project Review

Chairman Rilee commented that this Resolution has been reduced to a six month review; prior to this it was an annual review. Chairman Rilee further stated that there are many new members coming on and too few members present today to take action on the Resolution. Chairman Rilee would like to request to extend this to another month so new members can better understand the Resolution. Chairman Rilee stated that he has heard from some members on this and there are strong feelings on it. Chairman Rilee asked Ms. Swan to give a quick outline.

Ms. Swan responded that the delegation of authority mainly include administrative actions by the Executive Director and staff of the Highlands Council. Ms. Swan noted that throughout the presentation she was trying to give the Council an idea of some of those, for example, RMP Updates are done by the Highlands staff because it addresses purely factual information. Ms. Swan noted that when it is a policy decision like a Map Adjustment it comes to full Council. Ms. Swan noted that the reason for this delegation is so business could be conducted in a timely manner and would not be held up to await decisions at Council meetings. Other issues delegated include exemption determinations by the Council and by the NJDEP where the Council staff weighs in and provides advice. In the Planning Area exemptions, the exemptions are clear and the Highlands staff handles those. Ms. Swan reports out on all to Council on a regular basis and if the Executive Director feels it merits the Council's attention then it is brought before the full Council. We have been working under this delegation resolution since 2009 and have never been an occasion a member has questioned any of the actions of the staff. Ms Swan advised that if the Council chooses to take over these functions then Council will be meeting either weekly or bi-weekly at a minimum. Chairman Rilee commented that he does not know much about the duties, has some concerns and would need some clarification.

Mr. Francis responded that the existing process is working and is not broke so he does not see a need to change it and suggested that we carry for another six months. Mr. Richko asked if you need 8 affirmative votes to change the current process. Mr. Dougherty commented that Council could make a motion and if it failed it would then carry for a further six months. Chairman Rilee announced that this Resolution would not be considered at this time.

Public Comments

Wayne Najduch, a resident of Independence Township in the Preservation Area – Mr. Najduch commented he is a supporter of the Highlands Act. He feels there is a genuine threat to the supply of water in New Jersey and believes many people do not understand how much of a threat that is, including elective officials. Mr. Najduch tries to attend all Highlands meetings and thinks the work of the Highlands Staff and what Council has to say is extremely important. Mr. Najduch commented that the new members may not understand that the acoustics in this room are

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outrageous and urges Council to speak into the microphone because what Council has to say is extremely important to the public.

Deborah Post, owns property in Chester Township – Ms. Post submitted typed written comments for the public record which are attached to the minutes. She commented on the effects of the Highlands Act as a harmed Highlander. Ms. Post spoke negatively about the Highlands Development Credit and TDR program.

Ms. Post spoke for over eight minutes.

Mr. Visioli urged Chairman Rilee to adhere to the 3 minute limit for comments.

Chairman Rilee responded that he is just trying to get used to people and it will get better.

Ms. Post continued with her comments. Ms. Post implored Council to consider re-pricing the Highlands Development Credits.

Julia Somers, New Jersey Highlands Coalition – Ms. Swan hoped Chairman Rilee enjoyed his first meeting. Ms. Somers was sorry that Vice Chairman Schrier had left the meeting. Her only purpose for attending the meeting today was to thank him as he has been on the Council for a very long time, as Vice Chairman and Acting Chair. Ms. Somers commented that she frequently disagreed with him and won't be surprised if she frequently disagrees with new Chairman Rilee. However Ms. Somers noted that Vice Chairman Schrier has put in an incredible amount of time and support to this Council. Ms. Somers says if Vice Chairman Schrier attends the next meeting she will give her thanks again because he deserves a big vote of thanks.

Monique Purcell, Department of Agriculture – Ms. Purcell commented on Hackettstown's Petition that was turned down. Ms. Purcell made a point that the Highlands Act called for a TDR Program and specifically said that the receiving areas would not be mandatory, however, during the RMP process a policy decision was made that when a municipality comes in for conformance with the RMP that accepting growth in the municipality was voluntary. The Department of Agriculture disagreed with this because we felt if you were going to comply with the plan, you should comply with the entire plan. Ms. Purcell went on to say that to hold Hackettstown hostage today seems to be very unfair.

Chairman Rilee agreed with Ms. Purcell and he stated as a mayor he would not want anyone telling him or his residents how much we should be taking in to compensate for someone else and it is a difficult part of the Act.

Ms. Purcell responded that her recommendation would be is to reexamine that particular policy as opposed to holding Hackettstown accountable for something that is basically not in the rules right now.

Scott Olsen, Deputy Mayor of Byram Township – Mr. Olsen referred to Ms. Swan's comment earlier that Council was lucky to receive the Smart Growth Award from New Jersey Future. Mr. Olsen stated that it wasn't luck, it was hard work. Mr. Olsen thanks the Highlands staff, in particular Eileen Swan, Tom Borden and Judy Thornton. It has nothing to do with luck but the quality of people Council has and the quality work the Highlands Council staff puts out.

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David Shope, owns property in Lebanon Township – Mr. Shope reiterated that if a municipality does not accept TDR, then the town does not get Center designation. Mr. Shope commented to Chairman Rilee that he was very pleased that Council's attorney Tom Borden has basically suggested that the Chair has un-fettered powers. Mr. Shope added that Chairman Rilee may or may not adhere to Robert's Rules and hopes Chairman Rilee does not take it seriously.

Hal Danielson, owns property in Hampton Borough – Mr. Danielson congratulated Chairman Rilee and other new Council members on their appointments to the Highlands Council and looks forward to a productive session with them. Mr. Danielson also wanted to thank the past members of the Highlands Council and Staff for helping to put New Jersey in number place as the most regulated State in the union.

Council Comment

Mr. Alstede commented that in the Act where it talks about the establishment of TDR and tells us that the Council shall identify areas within the Planning Area that are appropriate for development as voluntary receiving zones that combined together constitute four percent of the land area. Mr. Alstede asked if we have identified that four percent. Mr. Borden responded that in the RMP Council staff mapped these lands and that the four percent goal was not achieved in the mapping so the Council adopted criteria by which during the conformance process additional areas could be designated. He added that all of the provisions of the Act were met. Mr. Alstede responded that then perhaps prior to the next meeting all the members can be supplied with where those voluntary areas are identified so we know and Council have the authority to identify a voluntary area appropriate for growth.

Ms. Carluccio reminded Mr. Alstede that if Council does not approve an application because the Center does not include TDR than we are mandating TDR and it is not legal.

Mr. Visioli made a motion to adjourn the meeting. Mr. Mengucci seconded it. The meeting was adjourned at 8:39pm.

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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: 8/4/11

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 Dougherty						✓
Councilmember Dressler			✓			
Councilmember Francis			✓			
Councilmember Holtaway					✓	
Councilmember James			✓			
Councilmember Mengucci						✓
Councilmember Richko			✓			
Councilmember Schrier						✓
Councilmember Visioli	✓		✓			
Councilmember Walton			✓			
Chairman Rilee			✓			

PUBLIC COMMENTS SUBMITTED

Highlands Council Comments – June 16, 2011

My name is Deborah Post. I own property in Chester Township.

Good afternoon. It is good to see some new faces here today. For we harmed Highlanders, you are blank slates. Your names are not familiar, you are not harmed landowners, and you have not been visibly involved in the landowner protests regarding the Highlands Act \$6 billion theft of property values. The fact that you are Christie nominees does not make us immediate fans. After all, Commissioner Martin is also a Christie nomination and, despite much fanfare and promises, two years later he has done exactly zero to review, revise, rewrite and reissue the overreaching absurd red tape gala of the Highlands DEP regulations. It is my sincere hope that you will not follow Mr. Martin's lead, and that this new Council moves swiftly to review, revise and rectify many of the wrongs that the departing Council has heaped on top of the wrongs of the Highlands Act itself.

Let me start today with a specific:

First and foremost, the Highlands Development Credit must be re-priced, immediately. This is a simple Council resolution to change the current initial HDC price. TDR pricing is a Council duty in section 13 of the Act.

The HDC has been priced at roughly twenty cents on the appraised value of the stolen right to build a house, or the "lost build right", for shorthand. Your consultants Integra Resources determined the fair market value of an HDC, which is technically the marginal value of an incremental fifth buildable lot on an average Highlands acre. You may think of the HDC as the value of a 1/5 acre buildable lot on average in the Highlands, not precisely accurate but a useful, graspable, conceptual start. Because the HDC is a newly created Highlands currency, meant to be utilized across a diverse region, exactly what one HDC is initially confuses most. Ms. Swann has condescendingly written in the papers that I just don't understand the HDC process. Please be assured that my understanding is crystal clear. And, while all harmed landowners may not have an indepth understanding of the Integra Resources process, they all know that they are being offered a demeaning and insulting pittance as compensation for their Highlands Act losses. This Council grinds salt into open financial wounds.

After applying a 30% discount, Integra determined that the un-improved un-approved fair market value of an HDC is \$64,000. The 30% discount was to adjust for the improvement and approval costs of creating a buildable lot. This 30% discount may be appropriate for large acreage with significant subdivision requirements, but it is too large of a discount for smaller lots without big improvement requirements. Therefore it is not appropriate to burden smaller landowners with a large discount to value not applicable to their property.

On top of the 30% improvement discount, the Highlands Council applied another 75% discount to adjust for – quote - "the developer's willingness to pay" – unquote. The thought that a harmed Highlands landowner must bear an additional cost equal to 75% of his build right value to entice some theoretical developer somewhere with excess profit to get him to the TDR table is reprehensible to a serious fault.

In summary, Integra determined the fair market value of an HDC – that marginal buildable 1/5 acre - to be \$91,000, and discounted this value by 30% to value the HDC at \$64,000, to which the Council added an additional 75% discount to price the HDC at \$16,000. That calculates to 17 and a half cents on the undiscounted Integra fair market value determination. There is a huge discrepancy between appraised value and price, two different concepts that this Council's staff seeks continually to equate, and obfuscate. Appraised value and price differ by a factor of five. There is no need to take my word for this summary. I encourage you to study pages 34 and 35 in the Regional Master Plan's supporting TDR Technical Report.

The HDC crumbs being offered to landowners explains why the TDR Bank is such an abysmal failure. Gov Corzine channelled \$10 million in seed money into the TDR Bank as he left office. Today, there is still \$7 million left. In over two years the Bank has not been able to spend even \$3 million. There is \$6 billion of lost build rights in the Highlands, yet the Bank can't even figure out how to spend \$10 million of purported compensation monies? The HDC tracking sheet shows only two landowners closing on HDC offers, the largest being OFP, sadly in bankruptcy court and hardly a willing seller.

As a side note, it is indeed humorous that the tdr tracking sheet has recently had its final column showing closings removed from its web posting. The staff doesn't like transparency when someone decides to use the facts of the two closings to suggest their budget hungry program is a screaming failure.

Landowners are not going to participate in a tdr program that financially rapes them a second time. Even the destitute have their groveling limitations. Until the HDC is priced with honesty, integrity and fairness, your TDR Bank is doomed.

The Pinelands Commissioner spoke to this Council many years ago. During that presentation he advised that the largest discount to value that a Pinelands credit had sold for was 10%.

In my township, the TDR Bank is offering approximately \$23,000 an acre in HDC compensation, while Mr. Maglione, the chair of your TDR Bank which makes such lowball offers, personally has buildable property currently listed in the same township at \$100,000 an acre. He is offering others 23% of what he himself feels entitled.

I implore you to consider re-pricing the HDC to a fair and equitable figure as your first Council act eliminating one of the more egregious "punitive and menacing tools" previously wielded by this Council and its staff. You might find that, with a more attractive and equitable offering, you actually jumpstart the tdr program that is now six years behind its statutory schedule. Please, do chalk up a big positive on that blank slate.