

MINUTES

NEW JERSEY HIGHLANDS COUNCIL
MEETING OF JANUARY 20, 2005

PRESENT:

| | | |
|--------------------|---|-----------------|
| JOHN WEINGART |) | CHAIRMAN |
| TRACY CARLUCCIO |) | COUNCIL MEMBERS |
| LOIS CUCCINELLO |) | |
| TIM DILLINGHAM |) | |
| JANICE KOVACH |) | |
| MIMI LETTS |) | |
| DEBBIE PASQUARELLI |) | |
| MIKAEL SALOVAARA |) | |
| JACK SCHRIER |) | |
| BEN SPINELLI |) | |
| EILEEN SWAN |) | |
| GLEN VETRANO |) | |

ALSO PRESENT:

ADAM ZELLNER, EXECUTIVE DIRECTOR, HIGHLANDS COUNCIL
DANTE DIPIRRO, DEPUTY EXECUTIVE DIRECTOR, HIGHLANDS COUNCIL
DENNIS KECK, NEW JERSEY DEPARTMENT OF TRANSPORTATION
BRENT BARNES, NEW JERSEY DEPARTMENT OF TRANSPORTATION
RICK LATHROP, DIRECTOR, RUTGERS REMOTE SENSING
LEWIN WEYL, DAG, DIVISION OF LAW, ATTORNEY GENERAL'S OFFICE
DENISE GUIDOTTI, EXECUTIVE ASSISTANT, HIGHLANDS COUNCIL

ABSENT COUNCIL MEMBERS:

KURT ALSTEDE
SCOTT WHITENACK

The following are the minutes from the New Jersey Highlands Council meeting which was held at 10:00 a.m. at 100 North Road (Route 513), in Chester, New Jersey on January 20, 2005.

CALL TO ORDER:

The Chairman of the Council John Weingart called the third meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:15 a.m. Mr. Weingart mentioned that the gavel he'd be using for the meeting was made from the wood of a work-boat which had been retired in 1932. The boat was used to build and repair the Raritan Canal, and the gavel was being loaned to the Council by the Delaware and Raritan Canal Commission for the meeting.

OPEN PUBLIC MEETINGS ACT:

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

ROLL CALL: The members of the Council introduced themselves. Mr. Weingart noted that Ms. Debbie Pasquarelli would be late in arriving and that two members were absent.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF DECEMBER 16, 2004 AND JANUARY 6, 2005 HIGHLANDS COUNCIL MINUTES:

Mr. Weingart stated there were two sets of minutes to be approved. The first would be from the December 16, 2004 meeting. The members then made a number of comments to ensure that the minutes would accurately reflect what transpired. Ms. Eileen Swan referred everyone to page 8, paragraph 3, and asked that there be an addition to her response to Nancy Palladino's concern over "access passwords." It should be added that Ms. Swan outlined the process through which municipal officials were invited to comment on the map for a period when Senator Smith had said it would be left open for that purpose. Ms. Swan also said this comment should be added because there was a process in place and she correctly followed that process as a municipal official for her community. The motion was made by Mr. Jack Schrier to have the text added, which was seconded, and the vote was UNANIMOUS.

Ms. Swan then noted that on page 10, paragraph 2, the word "competency" should have been "comprehensive". Mr. Schrier then pointed out that in the same paragraph, end of line two, the words "that that" appeared, so one "that" should be stricken.

As to the January 6, 2005 meeting minutes, Ms. Swan made the following suggestions: on the hiring of Mr. Dante DiPirro on page 7, it should be noted that she nominated him to be the Deputy Executive Director; on Page 4, paragraph 5 where Assemblywoman Alison McHose spoke, she mentioned that two townships in Hunterdon County were in her District; an addition should be made to the minutes to reflect that she asked McHose to look at those townships because at least one farm is having problems; on Page 3, paragraph 3, Ms. Swan requested it be added that certain farms are not being treated equally because Hunterdon County has chosen not to fund farms within the preservation area; and that on Page 7, Ms. Andrea Hayde's comment, Ms. Swan requested that it be added that Ms. Hayde's concern was that the towns were expending amounts of money on legal counsel and that was why Ms. Hayde wanted to know if there was a way she could get financial assistance for getting herself a lawyer as well.

Mr. Glen Vetrano, requested on page 3 paragraph 3, his statement should be clarified because he stated the agricultural community in Sussex County has become more diversified to help farm profitability.

Mr. Schrier, requested on page 3, paragraph 3, within line three it should be changed from “Morris County farmland” to “Morris County farming.”

Mr. Tim Dillingham, requested on page 4, paragraph 5, that it be clarified that the economic impacts of regional planning had been studied in the Pinelands and that the results of those studies should be provided to the Council, the public and also to Assemblywoman McHose.

Mr. Weingart asked if there were any other comments, and since there were none, he called for a motion to approve both sets of meeting minutes; approval was UNANIMOUS.

CHAIRMAN’S REPORT:

Mr. Weingart noted that minutes of Council meetings henceforth would be taken by Denise Guidotti, and that a contemporaneous tape recording would also be made to assist the preparation of the minutes.

Ms. Lois Cuccinello asked the Chairman the status of Ms. Val Huttle’s appointment because she was noted as absent on the minutes. Mr. Weingart responded she should not be listed as absent because her nomination had not been appointed and that he had no further information on her possible nomination.

Mr. Weingart then noted that the Council voted at the last meeting to set up a Personnel committee and a Budget & Finance committee and reported that he had formalized the Personnel committee by appointing Tracy Carluccio, Lois Cuccinello, Janice Kovach, Jack Schrier, and Eileen Swan, with himself as Chair. In addition, he noted that the Budget & Finance committee would be chaired by Debbie Pasquarelli as Treasurer and that he was appointing Mimi Letts and Janice Kovach as the other members..

Mr. Weingart noted that the members of the DEP Rules work group will include Kurt Alstede, Tracy Carluccio, Tim Dillingham, Eileen Swan, and himself as chair. He reported that they had had one conference call with DEP staff about their rulemaking procedure.

Mr. Weingart also reported that he has appointed as members of a Cross-Acceptance work group, Lois Cuccinello, Janice Kovach, Ben Spinelli and Glen Vetrano. Mr. Weingart concluded his report and asked if any members had reports.

Ms. Lois Cuccinello, said she was aware of a 280 unit townhouse development by K. Houvnanian in West Milford called Eagle Ridge which has been grandfathered. The West Milford Town Council and the Passaic County Board of Freeholders have taken a stand to try and prevent this development from occurring in the Highlands because its exactly the type of development that the Act was designed to prevent because of its impact on the water supply. She believed there remains one outstanding DEP water allocation permit on the project. Her concern was that there are other developments like it out there that have been grandfathered in. People have been coming forward asking her

what the Highlands Council can do to prevent these developments because they fly in the face of the meaning of the Act.

Ms. Cuccinello moved that Mr. Weingart and Mr. Zellner should find out more about Eagle Ridge and recommend what stand this Council is capable of taking and what impact it could have on these developments. Mr. Schrier seconded her motion and stated that the approval of these developments appears to lie in the hands of the DEP, and the vote was UNANIMOUS

Mr. Schrier added that it's crucial that the Highlands Council give input to the DEP while they are considering approvals because some developments that meet the criteria for grandfathering in the Act should not go forward.

Chairman Weingart agreed with their comments, and said the Council should come up with a policy and procedure on how it will deal with these situations, addressing whether to take a position and what position Council members should take in responding to questions about specific development projects.

Mr. Dillingham said that the Council needs to know clearly what its authority is and what impact it can have on these developments. He also noted that some projects could be redesigned which will affect the approvals that are in place. One authority of the Council is purview over State and local projects and the Council needs clarification as to how to consider those. Mr. Zellner added that in the second half of the meeting today some of these issues will be covered.

Mr. Schrier asked about the status of the ethics code and issues discussed with Ms. Rita Strmensky, Executive Director of the Executive Commission on Ethical Standards.

Mr. DiPirro responded that he has had further discussions with Ms. Strmensky and expected to be in a position to report back to the Council at the next meeting.

Ms. Mimi Letts commented that she has been questioned by people attending a presentation she made about what New Jersey's neighboring states are doing with regard to water supply and preservation in the Highlands. She asked staff to look into what they may be doing.

Mr. Ben Spinelli gave thanks to Adam Zellner and the staff of the Council office for the assistance they gave to Chester Township residents who contacted them for help. He noted the fact that their help was essential and made the Council an important resource and asset.

EXECUTIVE DIRECTOR'S REPORT

Mr. Zellner reported that computers have been installed at the Council's office. He expects that soon the office will have a server with internet access and email addresses for all Council members. He also noted the start of a clipping service with hard copies on file available to the public. The Highlands Council opened a bank account the day before. As to Budget and expenses, Treasurer Pasquarelli and he will meet after the

meeting to go over expenses. In response to requests for one at the last meeting, a task list has been formed and included with each member's packet for the meeting.

Mr. Zellner noted that on Friday January 21, 2005 in Passaic County will be the Second Annual Planning Conference which he will attend. He also attended a meeting at the Morris County Chamber of Commerce this week with Ms. Letts and Mr. Schrier. Next week is the Agricultural Convention in Atlantic City as well as the State Chamber of Commerce, all of which Mr. Zellner will attend.

PUBLIC COMMENT

David Shope from Long Valley asked if he could listen to the tapes of the first two meetings. Chairman Weingart responded that if he desired to listen to the recordings arrangements would be made.

Mr. Shope told the Council that a main concern of landowners in Long Valley is the lack of a dedicated source of funding for the purchase of land. He also said he is petitioning the NJ Water Supply Authority to increase its fees to get in line with what North Jersey is charging. Mr. Shope agreed to give Chairman Weingart a written copy of his comments at the meeting, as well as a copy of his petition to the Water Supply Authority.

Reverend Doctor Randall Nelson, pastor of the Christian Mission Alliance Church in Phillipsburg, Warren County. In February 2003 his church of 700 people purchased a 30 acre farm for one million dollars in Lopatcong Township to build a church on. It's a residential area and universal approval to build was obtained in November 2003. However, in June 2004 it was determined that one of the property lines was on the border of the highlands and he was told not to build because the church did not fit into the definition of a place of worship improvement. Chairman Weingart responded that the Council is trying to assess what powers it has, but suggested that Reverend Nelson speak with Mr. Zellner after the meeting.

Ms. Swan asked that when the Council hears of cases like Reverend Nelson's to be kept apprised of the follow up on them and what action has been taken. Chairman Weingart agreed that was a very good suggestion and so directed Executive Director Zellner.

Chairman Weingart then introduced the meeting's first presenter, Dennis Keck, who is Assistant Commissioner for Planning and Development at NJ Department of Transportation.

PRESENTATION:

Mr. Dennis Keck thanked Chairman Weingart for being invited and introduced Mr. Brent Barnes, DOT's Director of the Division of Assistance, Planning and Research. Mr. Barnes is also the President of the American Planning Association for the New Jersey chapter.

Mr. Keck noted the proactive approach that the DOT has taken with regard to the goals of the Highlands Act. In his capacity at the DOT, Mr. Keck is responsible for the planning, development, and finance of a 2.5 billion dollar annual capital program. The key goal of the program is maintaining existing road systems; about half is spent on mass transit, with the other half spent on highway projects. Another very important aspect of DOT's program is providing local aid to counties and municipalities. Safety is always a priority for DOT because New Jersey is about the busiest transportation corridor in the nation due to its location.

An important DOT project in the highlands is Route 57. DOT is starting a plan to preserve local character. Keck says DOT doesn't want sprawl and be forced to widen roads when it can be avoided. This approach is not something you would have seen DOT involved with in the past, but they are now looking to make existing systems work better and are working on a couple dozen projects of this type around the state.

Mr. Spinelli remarked about three possible major projects impacting the Highlands: the New York Susquehanna western restoration, the Lackawanna cutoff and the extension of commuter service to Phillipsburg. Mr. Spinelli asked Mr. Keck if he could inform the Council of whether and when these projects will go forward.

Mr. Keck indicated that all of these projects faced major hurdles and that none were likely to advance in any short or even medium timeframe. He added that the DOT would be sure to keep the Council informed and suggested that the Council also work with George Warrington, Executive Director of NJ Transit.

Mr. Schrier commented that Morris County could use more bus routes to existing commercial space and Mr. Keck said that idea really deals with land use and transportation working together, which is exactly what DOT is promoting.

Mr. Barnes then offered his assistance to the Council through his office of Smart Growth Design.

In conclusion, Mr. Keck said that DOT is looking forward to working with the Highlands Council on their master plan. He recognized that the demands will be tremendous and the need for coordination with the Council in its work on the master plan is crucial.

Chairman Weingart thanked both Mr. Keck and Mr. Barnes for coming and said the Council plans on having a great deal of interaction with them over the coming months and years.

PRESENTATION

Mr. Weingart then introduced the meeting's second presenter, Mr. Rick Lathrop, the Director of Rutgers Remote Sensing, for a power point on a GIS Profile of the Highlands.

Following the presentation, Mr. Spinelli asked Mr. Lathrop how much information is available on groundwater and whether the information would be adequate to refer to for

towns in the Highlands. Mr. Lathrop thought the data from USGS would be good though some of the estimates were from the mid 90s.

Mr. Dillingham asked for a recommendation on how to use the data Mr. Lathrop presented on build outs and future trends. Mr. Lathrop suggested mapping the data for where there is impervious cover and look for ways to restore water quality, also to look at individual watersheds.

Ms. Letts asked Mr. Lathrop if build outs could be used to project how far out the aquifers will be drawn out. Mr. Lathrop thought population projections could be made to determine water usage demands.

Ms. Cuccinello remarked that the data on land cover was from 2000 and asked whether there was more updated information, to which Mr. Zellner replied the 2002 DEP flyover data is now being prepared for GIS use and believes it will be available to the Council.

Ms. Swan asked Mr. Lathrop about impervious cover and withdrawals. He suggested that the Council look at studies by USGS on aquifer recharge – the more impervious cover you have the more water runs off to streams and is lost and unable to go into the aquifer. Ms. Swan remarked that the data sets shown indicate examples of supply and demand and it could be helpful to show towns where the build out permitted by existing zoning may exceed water supply.

Mr. Lewin Weyl asked Mr. Lathrop whether his models gauge the difference in impacts that would be caused by cluster, as opposed to detached, single-family development. Mr. Lathrop thought at the site specific level, planners can start to look at impervious cover and permeable blocks, noting his analysis had been more general.

Ms. Tracy Carluccio asked about aquifer recharge data and whether Mr. Lathrop applied aquifer recharge data to the maps and he said yes, the estimates were included as an additional factor however the information is not reflected in the power point presentation but will be provided to the Highlands Council.

Mr. Lathrop wanted the Council to visit the interactive HRIS website (Highland Regional Information System) where a map combining five layers of data is available at: www.crssa.rutgers.edu/projects/highlands.

Chairman Weingart thanked Mr. Lathrop for his presentation.

Mr. Weingart then advised the Council that in light of recent snowstorms that the Council will abide by decisions made by the Chester school system as to whether future meetings will be cancelled due to inclement weather.

PUBLIC COMMENT PERIOD

Bob Bzik, planner from the Somerset County Planning Board addressed the Council and said that the NJ TPA is now updating the regional transportation plan. Everything that can benefit from federal funding needs to be in that plan. As to TDR, he asked the Council to reach out early to counties because they are doing build out analyses now and considering TDRs. Mr. Bzik invited Council members and staff to attend. Mr. Weingart thanked him for the opportunity and said that the Council would make themselves available.

Tom Dallessio from the Regional Planning Association (RPA) said his organization, NJ Future, and others have been working on TDR. He promised to share further information with the Council at a subsequent meeting. He expressed the need for Transportation Trust Fund reform and wants to ensure that the Trust aids the Highlands and promote smart growth. Mr. Dallessio noted that RPA plans to create a smart growth score card that can be used to rate proposed transportation projects.

Dennis Schwedo, New Jersey Sierra Club, offered complete support for the creation of policy to deal with proposed projects. He mentioned the Eagle Ridge Hounvnanian project in West Milford and will fight on the water allocation permit issue. Mr. Schwedo said it's ironic that the DEP has granted an exemption to Christ church in Rockaway even though there wasn't support for it, yet the Reverend who is here today has universal support yet the town won't approve it.

Mr. Weingart reiterated the Council's need to decide what powers it has because there are many divergent views on the subject. Ms. Letts asked how to go about doing that, and the Chairman suggested that staff do an analysis to present to the Council as soon as possible.

LUNCH BREAK from approximately 12:30 p.m. – 1:15 p.m.

Following the lunch break, Chairman Weingart reconvened the Council and made a motion to go into Executive Session to discuss personnel issues. The motion was seconded by Mr. Schrier and approved unanimously.

EXECUTIVE SESSION from 1:15 p.m. - 2:00 p.m.

REPORT ON EXECUTIVE SESSION

Chairman Weingart called the meeting back to order and noted the following Personnel and staff hiring matters were discussed in Executive Session:

- 1) Personnel committee recommended that the Council change the second Deputy Director position to Director of Plan Development and have Executive Director Zellner recommend a new Organizational chart. Ms. Tracy Carluccio moved to approve, Ms. Letts seconded, and the vote was UNANIMOUS.
- 2) Personnel committee recommended to the Council the hiring of Mr. Tom Borden as Chief Counsel, Mr. Dillingham moved to approve, Ms. Janice Kovach

seconded, and the vote was UNANIMOUS. 3) Personnel committee recommended authorizing Executive Director Zellner to negotiate and fill the positions of Director of Plan Development and Director of Communications, Ms. Kovach moved, to approve, Ms. Swan seconded, and the vote was unanimous.

CONSIDERATION OF ETHICS POLICY

Chairman Weingart, acknowledging that members have expressed a number of comments and concerns about approving the Ethics Policy, suggested those members discuss their issues with Mr. DiPirro after the meeting and that the Council delay voting on the policy until the following meeting.

DISCUSSION ITEMS

Chairman Weingart turned the meeting to Adam Zellner and Dante DiPirro to discuss the Council's next steps and plans for the next few meetings.

Mr. Zellner referred to a task list which was circulated to all members at the meeting outlining items to work on in the immediate future. He said the NJTPA and Council staff will be meeting as they go over their capital budgeting, and at the next meeting of the Council in two weeks DCA representatives probably will be present to go over TDR projects in more detail so that the Council's TDR program will start. Mr. Zellner said by the next meeting he would provide an outline for members with direction on organizing the data they are gathering.

Next Mr. DiPirro presented a power point for the Highlands Regional Master Plan preparation along with a handout that outlined each point in the presentation.

The presentation presented a rough timetable to enable the Council to adopt a master plan in 18 months, by June 2006, as required by the Act. The timetable was as follows:

Information gathering, 3 months, 2/05 through 4/05
Analysis through initial drafting, 6 months, 5/05 through 10/05
Feedback & Public hearings, 3 months, 11/05 through 1/06
Redrafting through Adoption, 4+ months, 2/06 to 6/06.

Mr. DiPirro notes that the plan is to be based on and implement environmental standards set forth in the Act and that DEP is to enact rules by mid-May 2005.

Mr. DiPirro stated that the Council's master plan need not have the same level of detail as a town's local plan but can instead provide goals and policy strategies (including areas for preservation and areas appropriate for growth). Towns will then conform their local master plans to those principles (mandatorily in the preservation area and voluntarily in the planning area).

The structure of the Council's master plan will be similar to local master plans in that it will have six components: Resource, Smart Growth, Transportation, Financial, Government and Public Input, and Coordination & Consistency. Mr. DiPirro then went through each of the components, describing, explaining and giving examples.

Mr. Schrier mentioned the possibility of the 2005 holidays slowing down the projected timeline. Mr. Dillingham said the regional master plan will still need sufficient detail so that issues are not left up for debate. He also said even though the task will be burdensome the Council needs to analyze the available technical data to make accurate recommendations on densities so that the plan will in fact protect the water. Mr. Zellner agreed and said the plan will have a focus on watersheds.

Chairman Weingart noted the fact that the timeframe proposed by Mr. DiPirro would suggest that the “information gathering” phase begin around the date of the Council’s next meeting. Accordingly, he asked the staff to present a plan for that phase at the February 3rd meeting. Mr. Zellner replied that there will be an outline on staff status at the next meeting, as well as a presentation about non-master plan issues and the code of ethics and also that Commissioner Susan Bass-Levin has been invited to make a presentation.

Ms. Mimi Letts expressed the Council’s need to have progress and direction on ethics issues at the next meeting.

PUBLIC COMMENTS

Jeff Tittel, Sierra Club. He noted that as a Hunterdon County taxpayer he believes the Sierra club will be arguing that his County is wasting taxpayer revenue to interfere with the work the Highlands Council is doing and that the Sierra Club will fight the County’s proposed lawsuit. He said he hopes the Council should be very careful in dealing with the DEP Highlands regulations being adopted because they are being done on an emergent basis. He’s worried about the fact that the regulations don’t contain antidegradation sections which is contrary to the Council’s goals.

Ms. Debbie Pasquarelli asked what Mr. Tittel thought the Council could do to prevent properties being lost to development in the next 18 months. Mr. Tittel thought the DEP regulations need to include specific reference to the Highlands and contain sections for antidegradation.

Mr. Dillingham acknowledged Mr. Tittel’s point about adding to the Council’s immediate list the need to notify agencies and counties to ensure everyone is cognizant of the Highlands as they go about their planning because cross-acceptance doesn’t pay enough attention to the plan.

Ms. Pasquarelli reminded the Council to involve County Planning Officers and thought they should be invited to Council meetings. Mr. Zellner advised that he has been in touch with some counties already and that data collection from all directions will be analyzed.

Mr. Schrier said the Council needs to move as soon as possible to create an advisory service and requested that it be placed on the next agenda.

David Shope, Long Valley resident asked what happens to all the water not shown or reported on the maps presented by Rick Lathrop as they are outdated, because he'd like to know what the impact is going to be on property owners in the Highlands.

Mr. Zellner advised that the Council is mandated to do a current plan to compare with former plans.

Pat Matazarro, Rockaway Township, Clean Water Council (CWC), has been an advisor and came to the meeting today to offer any assistance to the Council. He is involved in watershed management and the CWC has a detailed report available. They also have a technical advisory crew of 27 people who are ready and willing to help the Council.

Chairman Weingart thanked Mr. Matazarro and accepted his offer of assistance.

ADJOURN

The Chairman asked if there were any further comments from Members or the public. Hearing none, a motion to adjourn was made by Mr. Vetrano, seconded by Ms. Cuccinello, and passed unanimously. The meeting adjourned at 3:20 p.m.