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**MINUTES**

**NEW JERSEY HIGHLANDS COUNCIL  
 MEETING OF MAY 19, 2005**

**PRESENT:**

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

**ABSENT:**

GLEN VETRANO  
 SCOTT WHITENACK

The following are the minutes from the New Jersey Highlands Council meeting which was held at Parsippany Town Hall, at 1001 Parsippany Boulevard, Parsippany, New Jersey on May 19, 2005.

**CALL TO ORDER:**

The Chairman of the Council, Mr. John Weingart, called the tenth meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:10 a.m.

**OPEN PUBLIC MEETINGS ACT:**

Chairman Weingart announced that the meeting was called in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6, and that the Highlands Council had sent written

notice of the time, date and location of this meeting to pertinent newspapers of circulation throughout the State.

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

**PLEDGE OF ALLEGIANCE** was then recited.

**COUNCIL MINUTES (MAY 5, 2005 meeting):**

Ms. Eileen Swan requested that changes be made to her comments regarding Hunterdon County on page 7, paragraph 4. She read aloud the revised paragraph.

Ms. Swan then made a motion to approve the minutes with the requested change, Ms. Lois Cuccinello seconded the motion, all were in favor, and the minutes of May 5, 2005 were APPROVED.

**CHAIRMAN'S REPORT:**

Chairman Weingart thanked the public for attending and also expressed his appreciation to Senator Robert Martin, who would be speaking later. He asked host Mayor Ms. Mimi Letts to give welcoming remarks.

Ms. Letts expressed her appreciation for all those in attendance. She advised that Parsippany has been actively acquiring open space in the past and that the town has also begun working to preserve the Boonton reservoir.

Mr. Schrier noted that Parsippany's open space initiative has been very successful. He advised that Parsippany is the most populated municipality in Morris County.

Chairman Weingart stated the meeting's agenda contained three presentations as well as two public comment periods. He asked if any of the members had reports, and since none did, he turned the meeting to Mr. Adam Zellner for the Executive Director's report.

**EXECUTIVE DIRECTOR'S REPORT:**

Mr. Zellner advised that the members' packets contained a draft resolution regarding a dedicated funding source for Highlands preservation for their review.

Mr. Zellner reported that the first of three regional partnership meetings occurred on May 16<sup>th</sup>. He thanked Ms. Beth Crusias for her efforts in organizing a productive and successful meeting. The second partnership meeting will be held at 3:30 p.m. on May 23<sup>rd</sup>, and the third meeting will be held on May 24<sup>th</sup> also at 3:30 p.m.

Mr. Zellner further noted that the Highlands staff schedule has been very active and several important meetings have been held regarding Lake Valhalla and the Attorney General's office.

Mr. Zellner noted for the record that there has been recent press coverage of a Highlands seminar hosted by former Governor Florio's private law firm. He noted that the firm is not affiliated in any way with the Highlands Council or with the Legislature.

Mr. Zellner then asked Mr. Steve Balzano to give a report and update on outreach efforts.

Mr. Steve Balzano presented a power point demonstration. Mr. Balzano reported that the staff has been working aggressively to obtain as much input as possible from municipalities and interested stakeholders.

Mr. Balzano noted that over the last 60 days Council staff has made good progress with GIS technology, as well as interagency coordination. He noted for example that staff and the Department of Environmental Protection ("DEP") have focused on the recent DEP Highlands rules. Council staff has also been working cooperatively with the Council on Affordable Housing ("COAH") regarding satisfaction of round two and round three COAH obligations.

Mr. Balzano advised that TDR projects are continuing to be developed, as well as plan development projects. The Highlands staff has commenced selection of participants for the Technical Advisory Committees (TACs).

Mr. Balzano said that focus has been on partnership and scoping out the Highlands Regional Master Plan. He advised that there will be community planning workshops throughout the Highlands municipalities.

Mr. Balzano advised that the TAC meetings commence in June and the goal is to involve as many stakeholders as possible.

Mr. Balzano further noted that Highlands staff is completing and will deliver a guide to municipalities to assist them while they make decisions regarding planning and protecting resources. Mr. Balzano reminded that the Highlands Regional Master Plan will be completed in June 2006.

Mr. Balzano advised that the boundaries set by the Legislature in the Highlands Act are not being revised by virtue of creation of the Highlands Regional Master Plan. The Act provides a comprehensive benefit and incentive package to encourage municipalities to comply with the Regional Master Plan, but it is not mandatory that towns accept growth. He pointed out that there are significant grant incentives in the Highlands Act.

Mr. Schrier asked with regard to enforcement of violations, what agency will be responsible. Mr. Balzano replied that the DEP has established an enforcement office within the Highlands Council's Chester office and will collaborate with Highlands staff, however DEP has policing power. He added that enforcement measures will be directed at the preservation area.

Mr. Schrier noted that the Picatinny Arsenal military base has been specifically exempted from the preservation area. The Legislature recognized the importance of utilizing the base.

Senator Martin stated that after the terrorist attacks of 9/11, it was clear that the Picatinny base had potential for future use and the need for construction of additional military buildings on the base was possible.

Ms. Letts stated that there are 2,000 acres in Parsippany Troy Meadows which are considered very important wetlands. However, since the wetland areas are not contiguous, it could not be contained in the preservation area. Ms. Letts said many public officials and residents would like to find a way to have the area preserved. Mr. Balzano stated that one option for the Township to consider is opting in to the Regional Master Plan.

Ms. Pasquarelli inquired as to how much of the 136,000 acres of potential growth area was not already built out because it could prove challenging to find willing receiving zones. Mr. Balzano said that the number could be as low as 50,000 acres, however receiving areas do not have to be raw land development. An alternate form of development could be reuse or redevelopment.

Mr. Zellner added in terms of inquires as to TDR, that to date receiving areas have primarily been utilizing redevelopment and not raw land development.

Mr. Weingart thanked Mr. Balzano and turned to the first presentation by the Morris County Planning Department.

**PRESENTATION (Morris County Planning Department):**

Mr. Ray Zabihach thanked the audience for attending and pointed out that the majority of Morris County is in the Highlands, and that 1/3 of the municipalities in the Highlands are within Morris County. Morris County also borders 5 Highlands counties. He advised that approximately 2/3 of the Highlands planning area is in Morris County.

Mr. Zabihach advised that Morris has been taking the lead on transportation and traffic relief efforts such as the Lackawanna cutoff to Pennsylvania.

Mr. Zabihach then asked Ms. Christine Marrc to give a presentation regarding cross acceptance.

Ms. Marrc advised that Morris County's final cross acceptance report was concise and was the product of an extensive cross acceptance survey, 5 outreach meetings, questionnaires and technical assistance meetings with municipalities.

Ms. Marrc stated that Morris County municipalities participated actively in the cross-acceptance process and that only 1 out of 39 towns opted out of the process. Such active

involvement allowed Morris to get to the bottom line swiftly, providing vital input into what will happen in the future in Morris.

Ms. Marrc noted with regard to planning areas 1 and 2, that the definition of planning area didn't particularly fit the description of those two areas because they were primarily built out. She stated that many historic districts felt any growth would compromise character. For example, the township of Mendham within planning area 5, does not possess the ability to support growth.

Ms. Marrc advised that the primary focus during cross acceptance was the Highlands boundary map. She said there are six centers currently in Morris County, Morristown is looking to become a redevelopment area and that Dover has a redevelopment area as well because there is a limited capacity for growth in those locations.

Ms. Marrc said the most significant issue is future growth potential and the focus on where towns would be by 2025. There are projects already in the pipeline which total approximately 14,000 units. She noted there is one potential large development project which is currently in litigation, so it is unknown whether it will occur. Morris County has been experiencing its lowest growth rate since 1950. She advised that most growth will be occurring in planning area 1.

Ms. Marrc advised that Morris County is a major employment center with 115 million square feet of commercial space and it is predicted that another 17 million square feet will exist by 2025. She further advised that Parsippany Troy Hills has over 21 million square feet of commercial space alone. Ms. Marrc noted that towns reported 664,000 open space acres.

Ms. Marrc reported that revitalization is a major goal in Morris County and that innovative ordinances are being implemented to better fit the needs of in-fill zones and urban areas.

Mr. Weingart thanked the Morris County Planning Department for the assistance it has provided to the Council and then invited Senator Martin to speak.

**SENATOR ROBERT MARTIN:**

Senator Martin congratulated the Council. He noted that since last August when the legislation was signed, it has been obvious that people really care about preserving New Jersey's water resources. He added that the manner which the Highlands Council and its staff have been getting things moving has been commendable and encouraging.

Senator Martin advised that he represents eastern Morris County and that Parsippany has been a leader and much of its initial work has been a model. He noted that sound planning produces good results.

Senator Martin noted that comments in the press regarding limited growth have been negative, but that a balance could be found. He advised that municipalities need to have a voice and that local governing bodies participating in cross acceptance will make important decisions on preserving open space.

Mr. Weingart then turned the meeting to the next presenter, Mr. Bill O'Hearn from the Highlands Coalition.

**PRESENTATION (The Highlands Coalition):**

Mr. O'Hearn noted that the Highlands Coalition was founded in 1988 and represents 117 environmental organizations throughout the state. He advised that Mr. Eric Stiles from New Jersey Audubon Society and Ms. Wilma Frey of the Highlands Coalition would also give presentations.

Mr. O'Hearn gave a power point presentation. He noted that the conservation community and Highlands Council have common goals such as preserving the water supply for 5 million people as well as preserving contiguous space.

Mr. O'Hearn advised that as to the Highlands Regional Master Plan, the Highlands Act contains strong language about preservation of contiguous lands, however, unlike the Pinelands it doesn't say how this will be achieved. The Highlands Council will have difficult decisions to make and will be highly discretionary.

Mr. O'Hearn reported that Highlands towns will first need to measure capacity and determine how much water exists. It will also be necessary to keep track of progress. He then asked Mr. Stiles to give his presentation.

Mr. Stiles advised that he is primarily an ecologist and that 2.8 million people annually participate in forms of nature based tourism.

Mr. Stiles said he believes that the idea that planning area equates to unlimited growth is a myth. He thought that the natural resources transcend, and prevents unlimited growth. He noted that Department of Community Affairs Commissioner Susan Bass-Levin has started to adopt some bottom line metrics for the business community which can also be used for the environmental community.

Mr. Stiles said the plan would need to set clear targets and track impervious surface to protect critical habitat for wildlife and plant life. Preserving landscape is critical and conscientious planning is key for greenway protection. Mr. Stiles noted that positive forward thinking perspectives will help to protect and facilitate Agricultural tourism and Ecotourism working together.

Mr. Stiles noted that the New Jersey Department of Transportation has initiated a wildlife trail system with the New Jersey Audubon Society. He then advised Ms. Frey would speak next.

Ms. Frey advised she was going to speak about the Highlands Coalition's map. In 1993 the state designated the Highlands as an important resource. The region consists of 800,000 acres, which amounts to about 44% of the Highlands critical resource areas. She advised that one fourth has been protected.

Ms. Frey said that the Highlands Coalition identified in their research the water resources of the region:

Ms. Frey stated that the Musconetcong is mostly in the planning area and happens to be an acquisition project of the New Jersey Conservation Foundation. The Pohatcong Creek Valley and Scotts Mountain are two of the most important contiguous areas in the Highlands Region.

Mr. O'Hearn stated with regard to the DEP regulations that the Coalition has met with rule makers and appreciated the opportunity to give input. They discussed waivers and linear development as well as brownfields issues. The Coalition is concerned that no loopholes exist to enable high level developments.

Mr. O'Hearn noted that a letter supporting the federal bill for funding of land acquisition will be before Governor Codey within the next few days.

Mr. O'Hearn expressed his pride in being part of the task force that fashioned the bill, and that the Highlands are of national significance.

Mr. Weingart thanked Mr. O'Hearn, Mr. Stiles and Ms. Frey, and asked that Mr. Stiles provide the Council with examples of metrics which he mentioned in his presentation.

Mr. Weingart then opened a public comment period.

#### **PUBLIC COMMENTS:**

Mr. Chuck Forbes, Ringwood. Mr. Forbes owns a commercial property which was under development however received a stop work order from DEP. He said the interim DEP rules contain stringent methods for waivers and that it would cost him \$6,000 to start the process. He said engineering costs would be expensive also. He reported that he can't situate his buildings in any way to fit the mandates of the Act and that the DEP requires 180 days to approve whether or not a property can be sold.

Merve Haines, Washington Twp. Mr. Haines is concerned by the lack of funding. He said New Jersey should make it as financially attractive for residents to place property in the preservation program. Mr. Haines mentioned a program in New Hampshire. He said 50% of the privately owned property in New Hampshire is currently use assessment land, similar to farmland assessment. A benefit of the New Hampshire program is the choice of whether or not to work property, and that use is not mandatory to receive preferential tax treatment.

Ms. Pasquarelli noted that New Jersey has roll back taxes which does utilize change of use strategies.

Lisa Salberg, Rockaway Township. Ms. Salberg advised that she had information regarding the property known as 140 Green Pond Road, Christ Church application for development. She said that the development defies basically every feature that the Act is designed to protect: threatened and endangered species; wetlands; aquifer recharge area; and the town well. In 1979 former owner Hewlett Packard filled in acres without any retribution. There are currently 10 million in outstanding fines on this application which lie in the hands of the DEP. Ms. Salberg advised she had documentation and offered to meet with the Council.

Devlen Mackey, Warren County. Mr. Mackey is an 8<sup>th</sup> generation farmer. He noted that he now owes several hundred thousand more on his property than its worth. He stated that his property was formerly worth over a million dollars. He said with regard to the proposed Resolution regarding a dedicated funding source that in the whereas language of the last page, the word “adequate” should be stricken because there is not adequate funding available through Green Acres.

Mr. Weingart thanked him and said that the Council would consider his specific comments regarding changing the language in the proposed Resolution.

Michael Spector, Morris County Green Party. Mr. Spector said with regard to development in Morris County, in particular Parsippany, it is in the planning area. He asked the Council to consider utilizing self-sustaining communities with the objective of lessening the residents’ dependence on automobile transportation within the community. He thought this approach could serve as a model for other communities in the Highlands.

#### **LUNCH BREAK:**

At 12:30 p.m. Chairman Weingart advised that a break would be taken for lunch.

At 1:15 p.m. he called the meeting back to order and asked Mr. Tim Dillingham to report on the Natural Resource Committee.

#### **COMMITTEE REPORTS:**

Mr. Dillingham advised that the **Natural Resource Committee** has been reviewing the DEP rules and has met once. It has completed an initial briefing included in the members’ meeting packets. He noted that a series of recommendations will be presented to the full Council regarding its comments to DEP. Mr. Dillingham noted that the Committee will measure the rules’ criteria, how they affect the Regional Master Plan and its consistency with the Highlands Act’s purpose. The Committee is focusing on effectiveness.

Mr. Dillingham advised that on the evening of June 1<sup>st</sup>, the public will have the opportunity to meet with the Committee. The Committee will also meet and discuss comments with other state agencies. On June 16<sup>th</sup> the Committee will then meet to finalize recommendations.

Mr. Weingart reminded that all Committee meetings are open to the public.

Mr. Schrier asked that upcoming Committee meetings be widely advertised.

Ms. Eileen Swan then reported on the **Land Conservation Committee**. The Committee had its first meeting on May 12<sup>th</sup> and discussed the schedule for future meetings as well as funding sources for land acquisition.

Ms. Swan noted that Ms. Laura Szwak compiled a report regarding what sources are currently available in the Garden State Preservation Trust Fund for the Highlands. Ms. Swan noted federal funding was available through the Forest Legacy program as well as the Farm and Ranch Land Program, and others such as the Environmental Health Program.

Ms. Swan advised that the Committee will also move forward on partnership with counties regarding strategies such as Green Acres. The prioritization of lands and appropriate use of lands have also been discussed. The Committee has focused on both planning and preservation areas when prioritizing and advising SADC. The Committee heard comments from the public about the need for dedicated funding for preservation.

Ms. Swan pointed out that the Committee addressed the fact that the Highlands Act's purpose is to protect the entire state of New Jersey and not just the Highlands region. The Highlands are indispensable to the health and welfare of all New Jersey citizens. The Highlands Task Force recommended permanent protection of lands and the need to identify lands for preservation. The Highlands Regional Master Plan requires a financial aspect in the Garden State Preservation Trust Fund.

Ms. Swan advised that interested parties have come forward and asked that the Council take action on the issue of a water consumption tax. She reported that the Committee asks the Council to consider the proposed Resolution empowering the Committee to conduct a study of all possible sources of dedicated funding including, but not limited to a water tax, and further, that the Committee make a recommendation to the full Council after said review.

Chairman Weingart advised that copies of the proposed resolution are on the back table. He then gave a report on the Plan Draft Committee.

Chairman Weingart advised that the **Plan Draft Committee** met last week and discussed the possibility of discrepancies in the boundaries of the Highlands map as they relate to the language of the Act. In particular, Morris County noted approximately one dozen areas of map inaccuracies when compared with the language contained in the Act. Mr.

Weingart noted that after reviewing the discrepancies, Morris County was correct in that some wording and boundaries were inaccurate as they relate to each other. The Committee has asked staff to meet with the DEP to correct these inaccuracies. Mr. Weingart stated that the Committee has asked other counties to also point out any discrepancies they have found.

Mr. Weingart asked that the proposed resolution be considered next.

**CONSIDERATION OF RESOLUTION SUPPORTING DEDICATED FUNDING FOR HIGHLANDS PROTECTION (voting matter):**

Mr. Weingart suggested that a motion to adopt the resolution be made with two changes: (1) inclusion of a suggestion made before lunch by Mr. Mackey to remove the words “and adequate” in the first Whereas paragraph on the second page; and (2) to insert a period after the words “in place” and delete the remainder of the sentence on page 2 in the “Now Therefore” paragraph number 1.

The motion with the changes suggested by Mr. Weingart was made by Mr. Schrier and seconded by Ms. Letts.

Ms. Swan advised that the Resolution empowers the Land Conservation Committee to conduct a study of possible dedicated sources of funding for land acquisition and to report back to the full Council. It further directs that the Committee and staff examine the possibility of including a Highlands water source protection fee as a potential source of funding for land acquisition.

Ms. Pasquarelli supported finding additional funding sources and that the water source protection fee should not be limited as a replacement fund. She asked the Committee to consider finding as many additional funding sources as possible and to slightly amend the Now Therefore paragraph number 1 to include a reference that any necessary additional funding mechanisms can be put in place.

Ms. Carluccio noted that the resolution supports the endeavor to consider creative ways to provide funding beyond the year 2009.

Mr. Weingart then asked for any public comments regarding the resolution.

David Shope, Long Valley. Mr. Shope stated that all land preservation efforts should go to the preservation area because those landowners have lost the most money. He thought that planning areas aren't losing equity. Mr. Shope noted that the NJ Water Supply Authority's figures are that they are funding ¼ of the land they have identified as a critical water area.

Since there were no further public comments or comments by members of the Council, Mr. Weingart called for a vote. The motion was APPROVED with all members present in favor.

Mr. Weingart then introduced Mr. Dick Zimmer to commence the presentation by Hunterdon and Warren Counties.

**PRESENTATION (Freeholders of Hunterdon and Warren Counties):**

Mr. Dick Zimmer advised that Ms. Marcia Karrow could not attend due to the recent death of her father. In her absence, Hunterdon County Counsel Guy DeSapio would present on her behalf, along with four other presenters.

Mr. Zimmer pointed out that the Freeholders of both counties support the protection of water resources and have asked their residents to support the preservation of said resources. Mr. Zimmer said that the Freeholders disagree with the Act in its structure and constitutionality. The Counties oppose the means by which the Act achieves the objectives, particularly an unprecedented home rule since the members of the Council were appointed by the Governor. Mr. Zimmer noted that they recognize the need to protect water and open space, however do not see the need for a super planning board.

Mr. Zimmer advised that they are pleased that the Council has addressed some of the important issues that have been raised over the past few months, for example, the Resolution passed today expressing support for future additional funding for land preservation and conservation.

Mr. Zimmer said the Freeholders look forward to working with the Council to repeal Fast Track. He believes it is an impediment to land use decision making not only in the Highlands, but in all of New Jersey.

Mr. Zimmer noted that the Counties have substantive concerns with the Act as to encouraging high density development in communities that cannot support it. He said growth is defined as voluntary, however fears that in practice it will be necessary to force growth in certain areas.

Mr. Zimmer said taxpayers may be responsible for the loss of ratables. He is concerned about the permanent secure source of funding.

Mr. Zimmer noted that they have questions about the scientific basis for the delineation of the preservation and planning areas. He then introduced Mr. Frank Getchel, a hydro geologist who has studied the underlying basis for the boundaries in the Highlands Act.

Mr. Getchel provided a power point presentation on the assessment of Highlands Act goals and advised he was hired by Hunterdon and Warren Counties to analyze the Highlands Water Protection and Planning Act.

Mr. Getchel noted that the Highlands are defined as a physiographic region, consisting of four types: crystal and rock, carbonate bedrocks, sedimentary rocks; and surfacial glacial and sands.

Mr. Getchel stated that the mapping was based on scientific data and is basically 50% planning area and 50% preservation area.

Mr. Getchel analyzed the ratio of areas of water quality compared to what was included in the preservation area. The DEP maps show that watershed areas of Category 1 status ("C1") for preservation are not included in the preservation area of the Act. He stated that 335,000 acres of the 859,000 acres of Highlands Act preservation area are C1 watershed areas.

Mr. Getchel said that groundwater recharge area is 13 inches. Annually there are about 42 to 46 inches. Between 25 and 50% of that goes down into the recharge which equals 25 to 50% of annual precipitation. Through his analysis high recharge areas are not being accounted for because they are not included in the preservation areas. There are 538,000 acres in the high recharge area and only about half have been included in the preservation area.

Mr. Zimmer then introduced Mr. Rick Gardner, Freeholder from Warren County. Freeholder Gardner stated he has been a farmer since he was 17. Mr. Gardner offered that equity in land is crucial. He believes that the Highlands Act has reduced equity of land and the consequences will be a high number of tax appeals.

Mr. Gardner said that property taxes will rise for individual homeowners to reflect changes in the ratable base and that the full magnitude of this is yet to be realized. He is concerned with what the practical effects will be.

Mr. Gardner noted that as a farmer in the preservation area, he feels he has no choice but to sell property or its rights to a state agency at a reduced value.

Mr. Gardner also said that appropriate amendments to the Act could be to the five year buyout. He thought there should be no limit, or at a minimum, 10 years.

Mr. Gardner said reimbursement for tax appeal expenses should also be included and asked the Council to work on these issues to restore equity in the Highlands counties. He further said that the legislation should be repealed.

Mr. Zimmer then introduced Mr. Guy DeSapio, Freeholder Hunterdon County to speak on behalf of Marcia Karrow. Mr. DeSapio advised that Ms. Karrow has expressed her concerns with the legislation to him. . Mr. DeSapio stated that Hunterdon and Warren Freeholders do want to preserve water and are sensitive to the environment and to preserving water resources. The counties have been actively engaged in protecting the environment by designing zoning schemes, and planning to protect pristine county lands.

Mr. DeSapio said that Hunterdon and Warren believe there are implications in the statute that aren't about the preservation of water resources. A major component should be planning to protect water resources because sound planning is the best way to address

problems. The Counties ask that the Council be sensitive to the impacts of the Act. The Highlands Act can cause unsupported growth and actually hurt New Jersey. The Counties worry that politics may dictate outcomes.

Mr. DeSapio asked that the Council petition the Legislature to ensure that the recommendations of the Council do not force growth. He asked the Council to ensure that an amendment to the legislation be made so that no municipalities in the preservation area will be adversely affected by not participating in high density COAH developments.

Mr. DeSapio stated that there will be tremendous tax impacts in the preservation area. He noted that the biggest component of local tax bills are school taxes. He questions how this issue will be dealt with after the effects of lost ratables.

Mr. DeSapio stated that Hunterdon and Warren Counties have identified 10,000 acres in the planning area that the Council will be reviewing for recommendation to the State Planning Commission as to growth. He asked that the Council consider these areas carefully.

Mr. Zimmer next introduced Mr. John DiMaio, Freeholder from Warren County. Freeholder DiMaio noted that Senator Smith's bill for a water consumption fee would generate approximately \$13 million per year and that amount will not be sufficient.

Mr. DiMaio said that residents will be willing to pay for clean drinking water. He thought that the State does not need to incur further debt. He said a water consumption fee should be charged to residents who exceed a designated amount of water usage. He then introduced Ms. Nancy Palladino.

Ms. Palladino said that the Freeholders support the protection of water resources in the Highlands area and noted that the plan should be based on science and not politics.

Ms. Palladino advised that Section 9a of the Act requires that the Council review all relevant Federal and State analyses of the Highlands region. She noted that Mr. Getchel referred to the results of the NJ Forest Service and US Forest Service analyses. Ms. Palladino referred to Section 11 of the Act which requires the Council to include an objective resource assessment in its plan which must be based on sound data.

Ms. Palladino noted that it is clear that the boundaries of the Highlands Act do not reflect the data generated from the studies done by the Forest Service. She said that the Highlands plan should impose the most stringent restrictions on the most precious water bodies.

Ms. Palladino inquired about the water bodies which were noted in Mr. Getchel's presentation that are not included in the Highlands area. Crucial water bodies are the C1 streams.

Mr. Zimmer thanked the Council for being generous with it's time and for affording them the opportunity to voice concerns.

Chairman Weingart thanked Mr. Zimmer and the Freeholders for their presentation and input.

Ms. Swan asked that Mr. Balzano clarify as to whether unsustainable growth was worse before the Act. Mr. Balzano responded that Mr. DeSapio referred to round 3 COAH obligations that require State Plan endorsement to maintain substantive certifications, which could generate builder's remedy lawsuits. He advised that the Fast Track Law allows for accelerated permitting. The existing State Plan is absent a viable environmental constraint analysis, which could result in the potential risk that Mr. DeSapio refers, however, Mr. Balzano stated that there is the potential for the Council to be instrumental in preventing the scenario that Mr. DeSapio described. The importance of understanding local goals is very important.

Mr. Tom Borden added that towns which voluntarily opt in are exempt from State Plan endorsement. Mr. Zimmer asked if opting in meant you have to agree to a density of five units per acre. Mr. Borden replied that the increased density issue was a voluntary TDR program.

Mr. Zimmer referred to Commissioner Bass-Levin's statement that a planning area will have to accept growth that is far denser than what is zoned for, such as 5 units per acre in receiving areas. He advised that that is the concern of the Counties.

Mr. Weingart said that it is not a provision in the Highlands Act.

Mr. Zellner pointed out that any land within the seven counties, including land not in the Highlands as defined by the Act, could be receiving areas under the TDR program.

Mr. Zimmer requested clarification in the statute.

Ms. Pasquarelli advised that she is concerned about these issues and linkages. Unbridled growth has caused expensive builder's remedy lawsuits. If there is a regional plan that designates 4% growth in an area that doesn't want it, the choice appears to be either to accept the unwanted growth, or deal with builder's remedy lawsuits. She asked what the Council could do.

Mr. Zimmer said they could advise as to specific provisions of the legislation they would like to see changed.

Mr. Weingart noted that the Council would review their recommendations and asked Mr. Borden to also prepare an analysis to clarify requirements and benefits to towns that opt in to the Regional Master Plan.

Mr. Borden advised that during the recent partnership meetings with municipalities, staff has been examining the communities' existing master plans to identify what towns want to control growth, and whether existing ordinances accomplish that with regard to environmental constraints.

Mr. Zellner added that in partnership meetings, municipalities have expressed interests to preserve as well as identifying possible redevelopment areas.

Mr. Zimmer said the Freeholders are interested in protecting the areas which are not in favor of receiving growth. He expressed that he hopes the Council will help to resolve this concern. He noted that they will put their concerns in writing and work toward a collaborative effort.

Mr. Schrier thanked former Congressman Zimmer and proposed with regard to the Fast Track Law that the Highlands Council draft a Resolution in support of repealing the law.

Ms. Pasquarelli made a motion for Council staff to draft such a Resolution for consideration at the next full meeting, Ms. Carluccio seconded the motion, all were in favor, APPROVED, and the issue was sent to the Natural Resources Committee for further consideration.

Chairman Weingart then opened a public comment period.

#### **PUBLIC COMMENTS:**

Dennis Svejda, Sierra club. Mr. Svejda said he was pleased to hear that the Council is taking action in support of repealing the Fast Track Law. He expressed the feeling that what the Council has done to accommodate the concerns of Hunterdon and Warren Counties is commendable.

David Zimmerman, planning consultant. Regarding the preservation area of Independence Township, Mr. Zimmerman said there is a conflict between the levels of government. He stated he has worked with Independence Township regarding reducing densities in preservation areas, and accommodating COAH fair share plans. The only area of Independence where public water and sewer service exist are within the preservation area. He noted that the town is attempting to comply with COAH, and the map shows where infrastructure is to be preserved. There exists a need for ratables because taxes are high. The area where Independence reduced density now sits in the planning area. Mr. Zimmerman expressed that it is confusing. He feels the policies don't work together.

Mr. Weingart advised that the Council would like to help, and the staff in Chester could assist.

Susan Book, Oxford. Ms. Book pointed to the DEP regulations which were adopted. She stated that the landowners will appeal taxes because there will be decreasing values.

She also stated that fees are exorbitant and that residents cannot afford to pay for hydrologists. She was further concerned about the language regarding selling property development rights because the DEP will have the right to inspect properties at their discretion. Property owners do not want the DEP to invade their privacy. She asked that the provision be taken out of the final rules.

Mr. Weingart said that the Natural Resource Committee will be addressing these issues, reviewing comments and input, and will follow up.

Ms. Letts noted that the fees proposed appear oppressive and said that the Council should address them.

Mike Herson, Oradell. Regarding Hunterdon and Warren County, he joins in their concerns. He noted that he agrees with Mr. Zimmer's action to repeal fast track. Mr. Herson stated that the water fee schedule could promote conservation. He further noted that he didn't believe funds from a water tax should be utilized for repairing pipes. He asked why Mr. Getchel didn't refer to surface water and reservoirs in his presentation.

Wilma Frey, Highlands Coalition. Ms. Frey stated that she hopes that the staff examines the loss of resale value of land in the preservation area. She noted that values of smaller properties will increase, and that larger properties are being taxed as farm assessed and thus she questioned the suggestion that there would be tax losses to the municipalities. She asked the Council to analyze what the actual tax impact will be on properties.

Ken Kosh, Jefferson Township. Mr. Kosh owns three commercial properties. He stated that the Highlands Act has cost him between \$2 to \$4 million since he cannot build on the properties now. He stated that residents could pay more for water. Mr. Kosh asked how he could be compensated fairly because commercial property owners feel they are being forced to pay exorbitant fees for land interpretation analyses.

Fred Beddall, Hunterdon County. Mr. Beddall stated he supports the intent of the Highlands Act and that he owns and operates a farm and further supports the preservation of the watershed. He is concerned about his irrigation systems because the Musconetcong is largely not within the preservation area.

George Tauber, Mayor of Tewksbury Township. Mayor Tauber stated that he did not originally endorse the Counties' position. He advised that he is encouraged by what he heard at the meeting today and is in support of money not being spent on litigation. He expressed concern over the fact that preservation is not being supported by Hunterdon County Freeholders in the preservation areas.

Ms. Swan stated that Warren County Freeholders had advised that they continue to participate in the Farmland Preservation Program, and she hopes that Hunterdon County would do the same as they are the only Highland County currently not doing so.

David Shope, Long Valley. Mr. Shope said that farmland assessment taxes are based on underlying value. He agreed with regard to Hunterdon and Warren County Freeholders not wishing to pay for farmland preservation. He stated that if the State mandates participation then the State should pay.

Jerry Kern, Pohatcong Township. Mr. Kern owns land in the core area of the Highlands. He stated his land has drastically lost value and that his wife is a realtor who has experienced a high number of prospective buyers who express the fact that they refuse to purchase properties if they are within the Highlands. He asked that the Council pay close attention to the positions of the Freeholders which spoke today, and assist landowners in not losing their land.

Ron Bitkowski, Hunterdon County. Mr. Bitkowski noted that it would be beneficial for the Council to receive the underlying studies which produced the presentation and work product that Mr. Getchel presented regarding the geology of the Highlands region. He thought there was credibility in the suggestion that the preservation area be expanded.

Ms. Carluccio noted that further analysis is being conducted with regard to groundwater resources and protection in both the planning and preservation areas. She asked Chairman Weingart to forward the findings to staff after the hydro-analysis is reviewed. She further requested that the definitions Mr. Getchel provided for what was appropriate in defining the Highlands be examined in relation to what is protected by the Act.

Mr. Weingart noted that the studies from the Counties would be analyzed.

Ms. Letts noted that the issue of land equity is a global concern and that the Council should learn as much as possible on the subject.

**ADJOURN:**

Mr. Schrier made a motion to adjourn, Ms. Janice Kovach seconded the motion, all were in favor, the meeting adjourned at 4:15 p.m.