

New Jersey Highlands Council
Community Partnership
Municipal and County Advisory Council

Report from Regional Partnership Meetings

August 2005

Introduction

The nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased, and not impaired, in value. –Theodore Roosevelt

Sustained protection of New Jersey's most critical resource, water, is at the heart of the Highlands Water Protection and Planning Act ("Highlands Act") passed into law on August 10, 2004. The Highlands Act itself testifies as to the critical nature of the Highlands natural resources and acknowledges that "sprawl and the pace of development in the region" jeopardize the future of those resources, and thus, the future of the Garden State. The Highlands Act further acknowledges that, while home rule is essential to the political and social fabric of New Jersey, the continued, "uncoordinated land use decisions of 88 municipalities, seven counties, and a myriad of private landowners" does not provide adequate safeguards.

The Highlands region accounts for more than 850,000 acres that are the source of drinking water for over 5 million residents - 65% of New Jersey's population. More than 70 % of its land area is considered environmentally sensitive including extensive forests, wetlands, rivers, streams, rare species and historic sites.

The Highlands Act establishes a 15-member Highlands Council charged with developing and implementing a comprehensive Highlands Regional Master Plan ("HRMP") for the entire highlands region. The Act envisions adoption of the HRMP by June 2006. The goals of the HRMP are to:

- Protect and conserve drinking water
- Protect natural and cultural resources
- Preserve extensive and contiguous areas of land in its natural
- Promote compatible agricultural, horticultural, recreational, and cultural uses
- Discourage incompatible and inappropriate development
- Promote a sound and balanced transportation system
- Encourage appropriate patterns of development and economic growth

The objective of the HRMP is to promote a coordinated regional approach to integrate land use planning efforts at the local level with the broader goals of protecting the regions critical natural resources. It looks to build on the growth management efforts currently underway by individual municipalities and counties.

The growth management goals of the HRMP include the following:

- Manage future growth in order to protect natural resources
- Encourage future growth that is consistent with smart growth strategies and principals - “in or adjacent to areas already utilized for such purposes”
- Discourage “piecemeal, scattered, and inappropriate development”
- Identify existing developed areas that have the capacity to sustain redevelopment

Although the role of the HRMP is to encourage appropriate patterns of economic growth, nothing in the Highlands Act mandates that a municipality accept any particular amount or type of growth.

The Act encourages that the HRMP be developed through the cooperative effort of the region’s 88 municipalities and 7 counties, all of whom have a history of positive contribution to resource protection as well as a substantial stake in the regional planning process. In response, the Highlands Council established an advisory board made up of elected and appointed representatives of Highlands Communities, hereafter the “Partnership”, to provide maximum public input in crafting a common vision for the HRMP. While the raw material of this Partnership derives from statute, the first steps toward forming a practical and purposeful relationship began at the first regional Partnership Meetings conducted on May 16, May 23, and May 24, 2005.

The outcome of these meetings is summarized in this Report documenting the beginning of an open dialog between the Highlands Council and the municipalities and counties that constitute the Highlands Region.

Background

“The hard truth is that the best efforts of towns and counties have, alone, not been enough to guarantee the full and uncompromising protection of the Highlands. But neither will the Highlands Council be up to the task without local and county involvement. We’re in this together.”

- Jack Schrier, Morris County Freeholder Director and Vice Chair of the Highlands Council

The Highlands Council, whose membership derives predominantly from experienced municipal and county officials, chose to take their first steps toward regional planning in partnership with the towns and counties of the region, soliciting the input of those who have long grappled with New Jersey’s toughest land use issues. This is an important first step. The evaluations of the Partnership Meetings, submitted to the Highlands Council by participants, were overwhelmingly positive. The general sentiment seems to be that this is indeed going to be hard, but that together we can begin to find meaningful solutions.

As part of the first Partnership meetings, the Highlands Council extended invitations to the mayor and chairs or representatives of each of the 88 municipal planning boards, zoning boards, boards of education, open space committees, and environmental commissions. The Highlands Council also invited county freeholder directors, county executives, and the chairs for each of the seven county planning boards, county agricultural boards, and county open space committees. As a result, more than 160 municipal and county officials participated in the Partnership meetings.

For the convenience of attendees and the management of staff resources, the Highlands Council held one Partnership meeting in each of the three regional zones: North (Bergen, Passaic and Sussex Counties); Central (Morris County); and South (Hunterdon, Somerset, and Warren Counties). The meetings, held on May 16, May 23, and May 24, were designed to provide basic information on the Highlands Act and to

gain insight and perspective from municipal and county officials as to those key issues that should be addressed in the HRMP.

As a “first step”, small breakout sessions at each meeting provided a forum in which participants could freely identify and prioritize their concerns. These sessions covered a range of subjects including:

- Environmental Protection
- Open Space and Land Preservation
- Agriculture and Forestry
- Economic Development
- Ratables
- COAH
- Infrastructure Capacity
- Transfer of Development Rights
- Developing Model Ordinances
- Legal Issues and Challenges

This report summarizes the key issues identified by Partnership attendees in each of the breakout sessions. Results of the breakout sessions for each of the three regional meetings are included at the end of this report for reference.

Summary of Key Issues

We choose to go to the moon in this decade and do the other things, not because they are easy, but because they are hard, because that goal will serve to organize and measure the best of our energies and skills, because that challenge is one that we are willing to accept, one we are unwilling to postpone, and one which we intend to win, and the others, too. - JFK

If we regionalize land use planning and development, but do not equitably address other growth supporting services like education, police and fire protection, and infrastructure support services, how will “growth communities” cover the cost of these vital services? How will non-growth communities deal with a loss of ratable growth? Will the very act of establishing a mandatory Preservation Area and a voluntary Planning Area shift significant new growth pressure to the Planning Area or beyond? What happens if a town neither wants, nor can accommodate, additional growth? Do we change minds or change plans? If TDR results in the transfer of development from the Preservation Area to the Planning Area, what impact does this have on a municipal COAH obligation? If new transit is the preferred solution toward getting more cars off the road, how can we control new growth pressures that inevitably follow the transit corridor?

The above questions provide a sampling of the difficult and complex issues raised in the course of Partnership meetings. Forgetting for a moment regional planning challenges, even within the familiar structure of “home rule”, our ability to maintain the character of our communities, protect our natural resources, pay for our schools and other public services, reduce congestion on our roads, and chart a reasonable course for the future of our communities seems restricted at almost every turn.

Conflict, complexity, and contradiction seem to attend each policy shift, plan change and new strategy. Unintended consequences often keep pace with those that were planned. In the midst of such an environment, a shift toward regional planning provides as much anxiety as it does hope for improvement. But there exists broad agreement that we need to chart a new course and that the challenges we face cannot be postponed. This agreement is reflected in the passage of the Highlands Act which sets

in motion a comprehensive mechanism for planning to protect our natural resources and future quality of life.

Given that the Partnership meetings were organized regionally, it is interesting to note that, while there was some regional shift in emphasis, there was marked agreement as to the issues of paramount concern.

Comments regarding the challenges posed by COAH affordable housing obligations and builder remedy lawsuits, perhaps not surprisingly, pervaded almost every topic area. Determining how the HRMP will impact existing and future municipal COAH obligations will be an important part of the planning process. Of highest priority, specifically, is the need for COAH and the Highlands Council to coordinate a common sense regional approach in light of the regulatory and planning constraints necessitated by the Highlands Act.

There was strong general support among all partners in all sessions for creating a secure, dedicated and adequate funding source to accomplish the myriad of goals set forth in the Highlands Act. There appeared to be universal support for the enactment and implementation of a “water fee” as one means of raising revenue. The water fee (or other related mechanism) enjoys broad appeal because it spreads the cost of protecting the Highlands (and its watersheds) to all beneficiaries, including water users outside of the Highlands Region. But the demand on any new revenue source will be great. One of the challenges of the HRMP will be to quantify funding needs and explore alternative means to gain the financial support necessary to achieve the goals of the Act that is fair and equitable.

Balancing the needs, objectives and treatment of the Planning and Preservation Areas is considered essential. For example, in regard to open space funding, there is concern that funding will now shift to Planning Area towns, in lieu of Preservation Area towns, where open space is now thought to be at greater risk. There is also fear that the Highlands Act has already skewed land values in advance of assessing land for Transfer Development Rights (TDR) and general equity protection purposes. And funding and

equity protection aside, there is concern that the Planning Area will be asked to accommodate all of the growth that might have occurred in the Preservation Area but for the Highlands Act. Partnership comments generally encouraged that the HRMP provide equal treatment, and should make no distinction between the Preservation and

Planning Areas, when identifying and protecting the critical natural resources and sensitive areas of the Highlands Region.

The Partnership meetings raised the closely related matters of education funding, property tax reform and service and ratable sharing. There was some suggestion that the Highlands Act did not go far enough in that regional land use planning should be supported by regional financial planning. Absent a long-term, secure and adequate funding source capable of balancing the financial needs of Preservation and Planning Areas, the Highlands Council may simply need more tools. While the Highlands Act does provide a mechanism to achieve tax stabilization, provides new funding for planning grants to municipalities, provides the ability to assess impact fees in TDR receiving areas, and further provides a range of technical assistance and legal support to towns that gain compliance with the Plan, the general view is that more assistance will ultimately be required. The challenge to the HRMP is to identify the additional tools and revenue required and to outline those additional legislative initiatives, programs, and creative solutions that will promote balance, equity, cost control and sustainability.

The Partnership attendees expressed appreciation for the Council's outreach efforts and encouraged continued coordination and outreach during the preparation of the HRMP. The public needs to understand and support the rationale for increased emphasis on protection of Highlands' resources. There is also considerable misinformation on the intent and goals of the Highlands Act that a continued outreach program can address.

And finally, Partnership attendees encouraged coordination with local and county government to take advantage of the good planning efforts already being done at the local level to protect natural resources, acquire open space and promote smart growth opportunities.

Partnership Issue Identification

Environmental Protection:

To a large degree, many of the goals of the Highlands Act derive from our need to protect invaluable resources of the Highlands for future generations. The extent to which the Act truly achieves environmental resource protection will be the primary measure of our success. Partnership breakout sessions focused on identifying those issues that are considered key to insuring the HRMP's success. Not surprisingly, protection and enhancement of water quality and quantity issues topped the list of concerns. However, there was also broad support for the other environmental protection goals of the Highlands Act.

The HRMP should be based, in large part, on good data and real science. Carrying capacity analysis, particularly, must be based on science and our ultimate approach needs to be detailed and understandable to the general public. Getting accurate mapping of waters and related buffer areas is essential. Other mapping of steep slopes, ridgelines, view sheds, threatened and endangered species habitat, aquifer recharge areas, limestone areas, wetlands, forested upland and historic resources should be coordinated throughout the Highlands Region.

Habitat protection needs to be supported by a strategic approach toward open space acquisition that is geared toward sustaining or enhancing habitat and functional ecosystems.

Partnership comments in all meetings touched upon the need for continued identification and delineation of sources of pollution related to sewer, septic, pesticides, herbicides, fertilizer and pollution. It was suggested that the Highlands Council needs to coordinate with our regional neighbors and that the HRMP must give impetus to stronger enforcement against violations that threaten water quality.

The Highlands Council, through the HRMP, should support the restoration of Highlands' lakes and other water resources. Septic system management, particularly in regard to existing lake communities densely developed using on-site disposal, was a concern to many participants. Partnership discussion encouraged that the HRMP set out a process for "getting a handle on" septic system failures. In terms of protecting future water quality, identifying and addressing past mistakes or simply repairing failing systems is as important as safeguarding and verifying new system installations. Improved septic system maintenance is also considered a priority. It was suggested that more education of the public in regard to required septic system maintenance would be helpful. The HRMP can also explore opportunities for alternative septic designs for small lot developments.

Open Space and Land Preservation:

Funding for acquisition and for stewardship and management of preserved lands is considered key to the ultimate success of the HRMP. There is concern that acquisition funding through the State should continue to be balanced between Preservation and Planning Areas and targeted at important resource lands. One concern is that the Highlands Council needs to adopt fair, reliable criteria to prioritize acquisitions. Some Partnership participants wanted to see those criteria based on water resource protection values. Others felt that some resources, such as forests, received a greater level of priority than others, such as farmland. Partnership comments were supportive of spreading the cost of preserving land in the Highlands through a broad water fee or similar approach. The participants also wanted to see a wider range of incentives directed to landowners to encourage them to preserve land.

The HRMP should look to promote more creativity, flexibility and coordination from open space protection and acquisition funding entities. Presently, it is difficult, at times, to “marry” diverse funding sources such as: municipal and county programs; the State Agriculture Development Committee (“SADC”); the New Jersey Green Acres program; private and non-profit conservation groups; foundations; private landowners; and federal assistance programs. The Partnership comments also encouraged use of more creative financing to stretch limited funds. Funding tools should be broadened and diversified. The HRMP should promote coordination through and with these existing organizations to accomplish regional objectives such as greenways, trails and inter-municipal and inter-county programs.

Prior to initiating the acquisition of land for preservation, the HRMP can outline the range of acquisition goals and objectives that will guide purchases. The interaction of various uses, including recreation, should be fully considered at the outset to avoid conflict. Being clear, at the outset of any land acquisition, as to what future uses are thought compatible with acquisition goals, will limit some of the problems of the past, such as insufficient maintenance of preserved lands and conversion of protected lands to uses not intended as a purpose of the original acquisition. Conflict will also be

avoided if the “right to farm” provisions of all agricultural preservation acquisitions are acknowledged and supported in advance of and following the easement purchases. Enforcement of easements and acquisitions is essential and that job will be made easier if the original acquisition intentions are clear and well documented.

Finally, there is a perception that the very act of designating a Preservation and Planning Area has created “winners and losers” both in terms of the HRMP’s impact on land values and future farmland and open space acquisition priorities. Ultimately the Plan needs to address this issue and provide a way to insure that all future acquisition efforts will be fair, balanced and strategic – on both sides of the Preservation Area line.

Agriculture and Forestry:

The agriculture and forestry discussions framed the current issues and strategies to promote sustainable farming and forestry practices throughout the Highlands Region. Of paramount concern was the need to protect landowner's equity, obviously, a theme across all issue sessions. Other specific concerns expressed by Partnership attendees included the following:

- The HRMP should strive to support a broader understanding of the needs and challenges of farmers and land managers. The Plan should be used to educate the public about agriculture and forestry in the Highlands and about their changing nature as a business enterprise. Ag-tourism and other new creative approaches to enhancing agricultural viability should be explored.
- Upholding "Right to Farm" protections will be essential to keep agriculture viable in increasingly suburban settings.
- Creative funding to protect farmland, support farming, protect against excessive taxation of farmland and provide an incentive to new young farmers should be built into Highlands funding considerations.
- There is a need for the HRMP to support land management activities including developing best management practices including technical support to farmers and farming operations; invasive species management; sustainable forestry practices including regeneration; and improved ordinances to support deer and geese management control.
- Also, Partnership comments stressed that sound forest management practices is key to achieving the goals of water quality protection. The HRMP should make effort to develop necessary sustainable forestry practices and best management practices such as the coordination of forest management plans including education, training and technical support.
- Tree removal and land clearing activities need to be monitored within both the Planning and Preservation Areas; this might best be achieved through local ordinances.

Economic Development:

The HRMP should be a catalyst to energize the process of building a sustainable, responsible, regional economic engine, sized to the Highlands unique markets and opportunities and attuned to its environmental and cultural characteristics. The concern is that this will not happen without better coordination of the various state agencies and without the vital and strategic cooperation with and between our communities and other stake-holders. If the HRMP is to fulfill “smart growth” opportunities, there will need to be an unprecedented effort to clearly define the goals, plan for the infrastructure, financially support and actively facilitate smart growth opportunities. The Plan must articulate the vision and strategies to accomplish that goal.

There is uncertainty as to how COAH obligations will change in communities that accept growth. There is concern as to what the criteria will be for designation of “receiving areas” for transferred growth. There is also concern that some communities will be targeted for growth because they have sewer or water capacity but that other growth constraints such as: traffic; resource limits; school capacity and cost; and quality of life issues, will not be factored into the planning equation. The HRMP needs to clearly articulate the criteria used for designating growth areas that are comprehensive and not exclusively tied to infrastructure capacity. The designation for growth areas should be anchored in broad criteria and comprehensive carrying capacity analysis.

Other economic issues include: planning for successful eco-tourism in the region and the provision of realistic “green infrastructure” guidance that renders new growth more compatible with resource protection goals and more sustainable in regard to energy consumption. The process for identifying, qualifying, reclaiming and re-developing brownfields needs to be clarified under the Plan. We need to make smart growth easier to accomplish by providing clear guidance and design standards, access to infrastructure and predictable permit processing in identified growth areas. COAH issues need to be regionally coordinated and such coordination should result in common sense provision

of low and moderate income housing in ways that support healthy, integrated, sustainable communities. This means that the Plan will need to advance the strategic targeting of funds, services and planning assistance to growth areas but will also need to come to agreement with COAH as to how regional planning will impact local responsibilities to provide affordable housing. Balance, sustainability, and “smart growth” are the destination. The Highlands Regional Master Plan needs to be the road map.

Ratables:

Establishing a balance between growth and natural resource protection is a challenge. However, there was general consensus that the HRMP should continue to build on the good work that municipalities and counties have begun toward promoting “sustainable” growth in their communities.

However, in all three economic development sessions, there was sentiment that municipal competition for ratables is neither producing desired outcomes, nor delivering meaningful tax relief. As a means of funding education and other public services, it was generally agreed that the “ratable chase” as an economic model is not sustainable.

It was expressed in one session that “the ratable chase is over.” The point of this comment was, generally, that the ratable chase is one that does not end and that may lead where you never planned to go. In Partnership sessions, some Planning and Preservation Area municipal officials shared a common concern that their municipal taxes would likely rise as a result of the Highlands Act but they reached the same conclusion for opposite reasons. In Planning Areas, it is thought that taxes will rise because new growth will generate service costs, particularly education costs that will not be fully covered by new revenue. In Preservation Areas the belief is that the tax’s will rise because, in the absence of growth, tax revenues will not keep pace with the rising cost of providing municipal services, particularly education services.

It is acknowledged that some towns continue to focus on landing ratables that provide tax revenue while not demanding significant new services. It is further acknowledged that such an approach to town planning and community development does not always result in the best use of land and resources. One example discussed are so called “McMansions” that, on balance, are thought to generate as much revenue as cost. While admittedly not a great use of land and resources, such low-density housing is thought by some to be “better than the alternatives”. The avoidance of projects with the potential to bring in new school age children has become a standard local planning goal for reasons of political or financial survival.

What came out of discussion is that, at present, the “bottom line” on ratables is difficult to pin point but that the key issues are as follow:

- Highlands communities will need funding assistance. A dedicated revenue source through a water use fee will be essential and appears to be the favored approach for spreading the cost for continued growth management efforts of protecting Highlands’ resources across all beneficiaries
- The HRMP needs to specifically outline and clearly articulate an approach for dealing with problems of ratable development created by the Act. Clear guidance and a strategy for future financial planning are essential.
- The Plan should try to clearly articulate the opportunities and strategies for growth in both the Preservation and Planning Area. Inter-agency issues that could impede appropriate growth must be identified and resolved.
- The Highlands Council should address tax stabilization issues and look beyond the existing Highlands tax stabilization fund for assistance. The HRMP should explore ratable and service sharing opportunities and work toward real and long-term solutions to rising school costs.
- The HRMP should look to provide guidance and direction and set the wheels in motion toward promoting alternative industries, such as agri-tourism/ecotourism, that build upon the heritage, habitat and beauty of the region.

COAH – Meeting Our Affordable Housing Obligations:

Partnership comments and discussion regarding COAH spilled over into virtually every other topic session. Municipal efforts to meet fair share obligations has resulted in a host of unintended consequences including sprawl, impaired natural resources, loss of farmland, overcrowding of schools, increased public service cost, mounting legal bills, infrastructure demands and political and community turmoil. To add to the frustration, for all the struggle, Partnership attendees felt there is question whether New Jersey has become a more balanced, integrated or equitable state in terms of access to affordable housing.

However, there is also some recognition that attempting to achieve the broad goals of fair share housing through the independent planning of 88 municipalities, all of whom are fighting for “good ratables” and all of whom want to keep taxes low by limiting the demand for new services, puts us at a distinct disadvantage toward meeting those goals. The general feeling of most COAH session participants is that we have to do better.

Partnership attendees generally agreed that affordable housing obligations in the Highlands Region should reflect the environmental constraints identified in the HRMP. The attendees emphasized the need for the HRMP to deliver a common sense approach to providing fair housing and social equity and COAH needs to be part of the solution. Close coordination of DEP regulations, COAH requirements and the evolving HRMP is considered critical. The Plan needs to spell out an approach for such cooperative planning and action.

Not surprisingly there remain many questions to be answered in regard to this issue. How will the HRMP impact on a town’s prospective fair share set-aside? How should towns proceed with round three assessments prior to adoption of the HRMP? How will TDR affect the obligation of the towns accepting regional growth? Will there be any form of state aid to support school costs in towns that accept regional growth? These are the issues that need to be clarified. It was recommended that the Highlands Council work toward providing guidance to educate and clarify on the broad range of issues surrounding COAH.

Infrastructure Capacity:

A key consideration to “smart growth” is infrastructure capacity. Although Partnership thoughts on this topic are varied there was broad agreement that planning for compact, well designed, healthy communities begins and ends with a clean and reliable source of drinking water. It has been suggested that gaining sewer and water capacity that would support regional growth areas is going to be a challenge. It was suggested that the DEP rules and permit process are burdensome and access to updated reliable information on capacity is not readily available. Expanding capacity in some communities can be controversial because of the fear of overdevelopment.

While growth in the Highlands Region will require infrastructure capacity, identifying appropriate growth areas and then providing sewer, water and other needed infrastructure capacity remains a difficult enterprise, even where the goals are clear and well supported. Planning for smart growth is one thing, making it a reality is another. What will make smart growth real is a coordinated, well-ordered, efficient funding and permitting review process for appropriate infrastructure development. If new economic development is to be more focused, strategic and restricted to areas deemed appropriate for growth, then the HRMP must provide the timing sequence that allows this new economic engine to run smoothly. All of the various State agencies need to be coordinated in reviewing Highlands projects. Government agencies must all pull in the same direction. It has got to be a partnership and one outcome of the HRMP must be the clear strategy to promote such cooperation and coordination.

Partnership comments stressed that the transportation component of the HRMP should be strategic and unambiguous and, in part, be directed toward getting more cars off the road. We must not plan for the Highlands Region as if it exists in a vacuum. The Highlands bisects a critical national corridor linking the New York metropolitan area with the rest of the nation. Our neighbor to the west, Pennsylvania already accommodates a large segment of new home owners who work within or to the east of the Highlands. Many of these western home buyers have not been able to find affordable housing in New Jersey that meets their financial needs or lifestyle goals. For

those living in the Highlands, planning around traffic congestion is already a part of daily life. In terms of our future economic viability and our quality of life, the HRMP should look to coordinate with the Department of Transportation (“DOT”) and other agencies on developing a regional and inter-regional strategy.

Highway infrastructure in many areas of the Highlands is already stressed. Partnership comments suggested targeting new development around existing and expanded transit. Many Partnership attendees felt that we need to provide broader access to public transit and improve upon recreational and pedestrian linkages. Smart growth should dictate that new employment and residential opportunities are consistent with mass transit opportunities. The HRMP should strive to present a realistic strategy for moving forward.

There was strong support for including schools under the heading of “infrastructure”. Generally, it was encouraged that the HRMP look into the potential for regional funding approaches that complement proposed regional land use planning. Partners felt that school capacity should be considered in the criteria for selection of future growth areas.

Transfer of Development Rights:

The HRMP will need to clearly articulate the goals and objectives of the Transfer of Development Rights (“TDR”) program. The goals for growth resulting under the Highlands TDR program are identical to those established for all other growth in the Region. The TDR program and the growth that derives from it must be balanced, sustainable and smart. However, one of the goals unique to TDR, the protection of landowner equity in areas designated for limited growth, makes this planning tool more complex and controversial. The HRMP will need to demystify TDR. TDR needs to be presented and formulated in a way that is easier to understand and easier to implement.

There is also concern regarding the viability of transferring growth from one town to another. It was expressed that some Planning Area towns cannot accommodate the growth they are presently experiencing. It was argued that “base densities” in existing growth areas are set at levels thought appropriate given the community goals outlined in the municipality’s Master Plan. Traditionally, TDR promotes that density be allowed to increase beyond established limits. It was further argued that even where higher densities can be justified and where they may, in fact, be necessary to support/justify existing or planned public infrastructure services (such as transit service), there can be a general and public lack of support for increased levels of growth.

There is concern as to how a community accommodating regional growth will fund school and service costs on a local tax base. While the Highlands Act provides a new ability for local governments to assess impact fees across higher density TDR projects, a concern is that this is a one time fee that will not address long term costs where new growth brings new demand for public services, particularly education. It was suggested that any new dedicated funding to the Highlands needs to help offset increased local education costs linked to accommodating regional growth through a TDR program. There was also sentiment that, in general, we need to provide regional cost sharing ability for education and other services. The HRMP should acknowledge that regionalizing growth will require changes as to how we pay for services necessary to support growth and it was encouraged that the Highlands Council recommend the appropriate legislative reforms required.

The Partnership session discussions explored the argument that TDR could act as a disincentive to smart growth because it adds costs to projects through the required purchase of TDR credits and through the imposition of municipal impact fees as provided for in the Highlands Act. It was suggested that the HRMP needs to detail as to how TDR will be used, strategically, to accomplish the goal of equity protection without negatively impacting on the overall viability of designated growth areas. One idea was to use a sliding scale approach to TDR credit valuation, discounting the price of credits used in approved growth areas and increasing the cost of credits used to boost density outside of growth centers. There was general concern as to how TDR credits might be uniformly valued across a Highlands Region that has multiple and diverse markets.

On the equity protection side of the TDR equation, there is concern that given the reluctance of some communities to accommodate new growth and because of many of the concerns cited above, there may be limited markets for the sale of TDR credits within the Highlands Region. The HRMP needs to fully explore the market potential and viability of the TDR program. There needs to be a real market for credits or, in the alternative, a steady and adequate funding source for acquisition of development rights that are simply retired, not transferred. The potential for TDR receiving areas within the 7 Highlands counties but outside of the 88 Highlands municipalities must be considered and fully explored.

It was also suggested that the HRMP should be flexible enough to allow for smaller scale TDR opportunities or isolated municipal programs that transfer growth from preservation areas to growth areas within their own borders.

The HRMP needs to promote cooperation among the various state agencies that will be called upon to support, review and approve new and higher density development. The Plan also needs to gain consistency in the methodology for allocating credits; consistency in the approach to fairly compensating landowners; consistency in an approach toward awarding planning grants and technical assistance to TDR receiving area towns; and consistency in the criteria used in the designation of sending and receiving areas for TDR's.

Developing Model Ordinances:

If there is a critical link between all of the goals and strategies of the HRMP and successful outcomes, that link is the implementing ordinance. This section of this Partnership Report will be brief. The bottom line of all Partnership sessions was simply this: the HRMP must look to provide municipalities with model ordinances that will accomplish the planning and resource protection goals identified. The ordinances must be based upon sound science and research. They must be founded in legal principal; they must be enforceable; and they must be consistent and integrated with the myriad of state and county programs whose rules and regulation also impact upon the ordinance focus area.

Beyond crafting workable model ordinances, there is also a need for practical legal and technical guidance that will allow permit review processes to move expeditiously. Comprehensive checklists of all application requirements and necessary ordinance compliance support documentation are examples of what the HRMP can provide.

Specific model ordinance needs discussed at Partnership sessions included: protection of sole source aquifers and groundwater resources; historic resource preservation; tree removal for upland forested areas; protection of steep slopes; “useable area” ordinances; impervious surface and stormwater management; downtown and center redevelopment design standards; cell tower construction; and ordinances to implement TDR programs. The Partnership attendees emphasized the good work currently being done by municipalities throughout the Highlands Region and encouraged a coordinated approach to developing model ordinances and design standards.

Legal Issues:

Not surprisingly, almost all of the key issues raised during Partnership sessions were also raised within the breakout sessions dealing with legal issues. What legal steps are available to regionalize funding of education and other services? How solid are the legal mechanisms for implementing TDR and will the implementing ordinances be provided by the Highlands Council? Exactly how will tax stabilization dollars be allocated? How will property in the Preservation Area be valued for acquisition, easement purchase and TDR purposes? To what extent can the Highlands Regional Master Plan establish limits to growth in Planning Area communities? How will the growth area designation process work and will it be criteria driven? What are the ways that built-out communities can craft ordinances that will promote development of new ratables? Will there be legal education for towns dealing with new rules, regulations and plans? How will Preservation Area towns legally meet COAH obligations? Will new growth, directed to the Planning Area, result in more COAH litigation and will the Highlands Council defend towns that are in compliance with the Regional Plan? The key Partnership message in all this is that the HRMP needs to acknowledge that there are legal issues and nuances that attend each and every aspect of a shift into regional planning and the Highlands Council and Council staff will need to provide explicit legal guidance and support during implementation of the HRMP.

Other legal issues raised in the course of the Partnership sessions were unique to the regional planning effort. Will the Highlands Council have the power to grant variances in regard to the Department of Environmental Protection's enhanced standards? May the HRMP impose standards more or less aggressive than those provided in the DEP rules? What legal assistance or representation can the Council provide regarding local property tax appeals? To what extent is the Municipal Land Use Law ("MLUL") pre-empted in the Preservation Area or in the Planning Area when communities opt-in to the HRMP? How will land use review processes at the local level be affected by the Highlands Act and the HRMP? Will the Highlands Council provide experts to assist in local land use disputes? To what extent does existing local land-use case law apply in a regional plan setting? If a town agrees with some provisions of the final HRMP but not all provisions, will there be a procedure for allowing such towns to "partially opt-into"?

There are numerous exemptions permitting new development in the Preservation Area under the DEP rules. Will all of these exemptions be allowed under the HRMP? What are the legal ramifications for not opting-in/complying with the HRMP? From the perspective of those attending the Partnership sessions, these are some of the key issues that should be addressed and clarified.

Taking the Next Step

“In theory there is no difference between theory and practice. In practice there is.”

-Yogi Berra

The Partnership Meetings focused on identification of important resource and growth management issues highlighted in this report. As we move toward crafting a Highlands Regional Master Plan, we hope to be as collaborative in developing planning solutions as we have been in articulating the challenges. Taking care to address the challenges that this regional planning initiative brings to Highlands communities remains a guiding principal of the Council.

In the course of the Partnership sessions, we heard many times of municipalities’ fears of “unintended consequences”. We realize that all land use and growth management decisions have impacts that are not always direct, or anticipated, or desired. We also acknowledge that there often is a gap between planning theory and practical implementation. We will strive to do what is necessary to close that gap. And we acknowledge that our success in closing that gap will depend upon how, where and with whom we take the necessary next steps.

One way to close the gap between theory and reality is to be better informed. Over the next several months, the Highlands Council staff will continue to work toward collecting, developing, analyzing, and sharing the best available data, statistics, mapping, studies and information related to Regional Plan development needs. Efforts will be strategically directed at informing a comprehensive assessment of Highlands’ resources: environmental, economic and cultural. We need to better define and better understand the region’s capacity to support growth. Identifying our existing infrastructure, in its broadest sense, and quantifying local and regional capacity to grow is essential. Identifying and quantifying the natural and human constraints to future growth is of equal importance. Better information will yield better decisions. Assembling the data for review is a next step.

Another way to close the gap is to enlist the support of scientists, economists, realtors, farmers, foresters, appraisers, attorneys, planning practitioners and many others to provide insight, ideas and technical advice to the Highlands Council throughout the development of the Regional Plan. The Council has formed a Technical Advisory Committee (“TAC”) covering a range of issues including those crystallized in Partnership meetings. The purpose of the TAC is to provide the Council with fast access to information and perspectives from experienced professionals and to get an “early read” on the merits and practicality of proposed solutions. Processing and vetting issues to be addressed in the HRMP through the TAC is a next step.

A third way to advance from theory to successful practice is to continue to work with Highlands municipalities and counties on “thinking through” or actually testing ideas that hold promise. The Council will continue to work closely through the “Partnership” to engage Highlands communities in developing workable solutions in order to gain practical insight into the host of unanticipated challenges sure to be waiting. As the Partnership discussions highlighted, formulating real solutions is sometimes only half of the battle. The other half often involves qualifying for funding or moving successfully through the myriad state and federal permits necessary to move forward. Moving through the program and plan development process with Highlands towns will help troubleshoot and avoid problems down the road. Such purposeful collaboration is a next step.

It is the Highlands Council’s plan to reconvene the Partnership meeting in the fall of 2005 once this analytical period has progressed further. The Highlands Council also is planning a series of Municipal Workshops once draft results become available and we have concrete data, evidence and analysis to share.

In closing, the Highlands Council extends our thanks and appreciation to all of those who participated in this series of Partnership meetings. We hope you will continue to work with us as we take the necessary next steps together toward developing a regional approach to land use planning in an effort to protect the Highlands for this and future generations.

Appendix A

Summary of Issues Identified by Individual Partnership Session

Economic Development (North Session)

Issue/Question	Dots
Need for sustainable and balanced growth plans	● ● ●
Beware of the “ratable chase”	● ● ●
Use successful development models and apply where applicable	● ●
Lack of capacity for economic development projects (in both pres and plan area)	●
Impact of reduced ratables on School budgets	●
Transportation concerns	●
Need for green technology for new projects and incentives for environmental improvements for existing businesses	●
Balance between growth and open space	●
Need for Interagency coordination	
Quality of life value must be a factor	
Interactive and smart growth initiatives for new projects	
Need for individual municipal consideration (case by case)	
Concern for competition for ratables	
Concern for a losing sense of community	
House Rich – people can barely afford taxes on their ever-increasing home value and can not move because the replacement costs are also too high	
Need to define impervious surface (crushed stone, pavers, etc.)	
Need to simplify process and steps for development and explaining overall rights	

Economic Development (Central Session)

Issue/Question	Dots
Traffic Patterns and Circulation elements for development projects	● ● ●
Visioning and need to balance development with Quality of life	● ● ●
Fast-track issues for development within the Planning area	● ● ●
Proper identification of redevelopment area	● ●
Loss of ratables through loss of appropriate area	●
COAH obligations that come with economic development	●
Ratables to support community (Sustained and balanced)	●
Assistance for ratable identification	●
Streamlined permit process	●
Effects on environmental infrastructure	
Interagency coordination	
Brownfield redevelopment (need enough sites and to identify properly)	
Increased costs for tax assessments	

Economic Development (South Session)

Issue/Question	Dots
Transit development / Rail expansion? Transportation component	● ● ●
School costs and effects to towns	● ●
Quality employment opportunities	● ●
Town marketing	● ●
Inability to move forward with existing master plans	● ●
Land Owner equity	● ●
Need for regionally planned economic development	●
Planning area overdevelopment concerns	●
Need to effectively communicate plan and developments options	●
Maintaining balance and community character	
Parking	
Pre-development (streamlined permitting process)	
Infrastructure needs for development	

TDR (North Session)

Issue/Question	Dots
TDR must be based on carrying capacity (sending/receiving)	● ● ● ● ● ● ● ● ● ●
Sliding scale to promote appropriate growth (SORP PA 1, 2)	● ● ● ● ● ●
Incentives to encourage development in focus areas (SORP PA 1 & 2)	● ● ● ●
Pre-act valuation vs. carrying capacity (how to reconcile)	● ● ● ●
How do you value, formula vs. offer	● ● ●
Municipal TDR programs, options	● ● ●
Allocation based on regional view vs. local ordinances (zoning)	● ●
Complexity of TDR, make it understandable	● ●
Transfer to urban areas	● ●
Resolve COAH uncertainty	●
Overdevelopment	●
TDR in constrained areas (is it worth it?)	●
Tool for redevelopment	●

TDR (Central Session)

Issue/Question	Dots
Make TDR process simple, because now the process is daunting.	● ● ● ●
Put together existing funding opportunities for Highlands towns, packaging incentives	● ● ● ●
Where will receiving areas be/difficulty in identifying voluntary growth areas (NIMBY, capacity issues)	● ●
Need for incentives and definition of incentives for towns to accept an increase in development.	● ●
Need to support/recognize long-term costs, such as school enrollment	● ●
Will towns be forced to accept development if 4% goal is not met?	● ●
Incentives to be receiving area are not impressive or compelling (need real \$\$, meaningful incentives, how to use incentives to achieve smart growth)	● ●
Need risk analysis (health, business, etc.) to determine liability/viability “incremental approach”	● ●
Can TDR credits/\$ be used to satisfy COAH obligations?	●
Get more information out re TDR opportunities	●
Idea—Change school funding law	●
How will TDR affect OS preservation or smart growth grants?	
How to convince landowners to transfer development rights out of the Highlands or out of their town.	
Transfer of density/development should consider not only capacity but socioeconomic issues.	
Redevelopment space	
Nonresidential options?	
Educate local officials—develop a broker system to match developers with willing redevelopment/receiving areas	

TDR (South Session)

Issue/Question	Dots
What kind of pressure will there be on towns that can't increase infrastructure carrying capacity to receive more growth?	● ● ● ● ● ●
Plan must resolve COAH obligations in receiving areas.	● ● ●
Coordinate/promote consistency among state agencies, OSG Highlands Council, COAH	● ● ●
How will infrastructure capacity be defined? How will conflicting capacities be decided?	● ● ●
Does growth have to be residential? Or can the development conform to local zoning?	● ●
Funding for schools and paying for sustaining school populations	● ●
Can impact fees be transferred from municipalities to school districts? If yes, how is this reconciled with the school surplus legislation (P.L. 1701)?	● ●
Regional revenue sharing/tax base sharing	● ●
COAH follows growth, especially detrimental in rural areas where growth is all new.	●
If 4% of planning area is targeted for development, what happens if the plan doesn't "find" areas to make up the 4%?	●
Opportunity for intramunicipal credits	●
Will there be planning area sending areas, esp. important for farmland?	●
Regional impact fee?	●
What are the down sides to TDR?	●
TDR should not force growth in the planning area.	
What will happen in towns that have COAH obligations but are built out?	
How much pressure will there be on towns to develop areas with infrastructure, i.e. become a receiving area?	
There will be pressure from systems that have capacity to develop	
Limited sites for schools. Places to build new schools will be scarce or not allowed, i.e. in preservation area.	
Will TDR be priced on a market basis? Will there be a price change between preservation & planning areas? Will the price be based on what level (county, district, township)?	
How will state infrastructure be impacted by designated receiving /sending areas?	

Ratables (North Session)

Issue/Question	Dots
Need a Water Tax	● ● ● ● ● ● ● ●
COAH relief incentives and mechanisms	● ● ●
Need creative ratable solutions	● ● ●
Need to address tax appeals and assessment costs for municipalities (other than tax stabilization fund	● ● ●
Need education/outreach/information program to assist general understanding	● ● ●
Revenue sharing possibilities	● ●
Redevelopment areas across planning/pres boundaries (one side of main street is in planning and one side is in pres.)	● ●
Need new methods to generate sustainable revenue	●
Revenue sharing possibilities	●
Prioritize ratable opportunities during the identification process	
General lack of ratable opportunities – industrial areas in pres. area a particular concern	
Possible trading of impervious surface areas	
Brownfields development and redevelopment will be too expensive and complicated	
Need to develop opportunities in the preservation area	
Identification of clean ratables	
Education about rules and process (see above)	

Ratables (Central Session)

Issue/Question	Dots
Creating destinations for eco-tourism	● ● ●
Need for value added ratables	● ●
School effects on ratable base	●
Tax assessments / tax base	●
Attracting the right ratable	●
Concerns for the “flattening of the Tax base” – meaning residential will continue to increase as the flow of commercial ratables dries up	●
Opportunity to expand the ratable base (revenue sharing)	●
Lack of Ratable opportunities	
Need for balanced ratables	
Consolidation of ratable opportunities (clustering and smart growth)	

Ratables (South Session)

Issue/Question	Dots
School and COAH obligations	● ● ● ●
Need for adequate tax base – balanced approach	● ● ●
Quality of Life – Good vs. Bad Ratable identification	● ●
Alternate sources for funding and/or ratables	●
Advantage of marketing municipalities through the identification process	●
Assistance for marketing Agri-tourism and Eco-tourism	●
Providing enough ratables to allow the residents to stay (affordability)	
Tax Base losses/exposure for	
Caps on School spending	
Reevaluation is not a solution	
Fair and balanced approach to identification	

Open Space (North Session)

Issue/Question	Dots
Water User fee	● ● ● ● ● ● ● ●
Prioritize water resource value in acquisitions	● ● ●
Green Acres appraisal vs. market value (equity \$\$)	● ● ●
Regionalize acquisition	● ●
Strategic acquisition/municipal control	● ●
Must solve tax shortfalls (offset lost ratables)	● ●
Identification of reliable funding sources (compensation & representation)	● ●
Active strategic pursuit/identification of parcels (Council & municipalities/counties)	●
Use bonding authority to stretch dollars	●
Pool local funding/knowledge	
Dispel myths about ratables, equity, open space, Highlands legislation	
Diversion of open space to other purposes (threatens integrity of future funding)	
Development rights vs. fee ownership (saves money)	
Agricultural economic development (flexibility of deed restrictions & regulations)	
Active v. passive recreation	
Uncertainty leads to missed opportunities	

Open Space (Central Session)

Issue/Question	Dots
Funding for stewardship and management (enforcement/upkeep) in planning area	● ● ● ● ●
Provide guidance/partnership strategies—building a cooperative plan to a) prioritize between preservation and planning areas and b) create funding partnership and assistance on acquisition funding.	● ● ● ● ●
Look at Right-to-Farm Act where it conflicts with funding goals of open space (& within core).	● ●
No penalty for good past efforts on open space preservation area	● ●
Need to motivate landowners to sell preservation land/easements, i.e. tax incentives, façade easements, creative trade on swap (perhaps like TDR), legal issues	● ●
Avoid conflicts between local open space goals and plan/act designation of growth areas	●
Legal liability protection for use of open space	●
Municipal open space acquisition in preservation—is it still valid?	●
Coordinate “regionally”, i.e. greenways	●
Open space decisions will be impacted if towns can “opt-in” to preservation area.	●
Protect landowners equity. Right-to-Farm is economically needed by farmers.	●
Reason for acquisition should not be lost (ex. conversion of open space to ballfields)	
Positive solutions: Tax incentives, Hard to “marry” diverse funding sources (find common ground)	
OS funds come with restrictions that limit creativity & flexibility needed to keep facilities solvent.	
Better coordinate open space and other (historic preservation) funding.	
5 year limit on equity protection floor on agriculture land threatens “working” open space.	
Coordinate with local/county parks. Look for funding assistance in the core	

Open Space (South Session)

Issue/Question	Dots
Act increases cost of open space acquisition in the planning area.	● ● ● ● ● ● ● ●
Act stresses protection of forests at the expense of farmland.	● ● ● ● ●
Legal issues concerning the locking and unlocking of increased open space acquisitions and who gets the financial benefits.	● ● ● ● ●
Must reach out to communities with more education & assistance re open space benefits.	● ● ●
Plan must provide for enforcement of easements & acquisitions. Must provide vision and stewardship.	● ● ●
How will “opting-in” change ranking/priority funding for town projects and open space efforts? (example – farmland preservation funding)	● ● ●
Plan creates funding imbalance, ex. of adjacent owners--one in the preservation area, other in the planning area	● ● ●
Plan must improve the existing COAH impact on town’s open space planning. Reconcile with state plan areas.	● ● ●
Develop more funding sources, esp. federal funds.	● ●
Act has delayed/alterd acquisition of open space and farmland easements in the preservation area	● ●
Acquisition funds—Be clear on legal language aimed at goals. (Ex. farmland covered with greenhouses... or meeting recharge goals.	● ●
Planning area at risk from growth.	●
Regulations in the preservation threaten partial purchase of land. Ex. Purchase of canal/trail strip vs. whole property.	●
Speed of implementation.	

Legal Issues (North Session)

Issue/Question	Dots
What is the building permit and other land use approval processes under the Act?	● ● ● ● ● ● ●
When will a municipality see the tax stabilization money?	● ● ● ● ● ● ●
How will property in the Preservation Area be valued?	● ● ● ● ● ●
Does local board have authority to grant variance to enhanced environmental standards in Preservation Area?	● ● ● ● ●
What legal representation will the Council provide regarding tax appeals? Who pays?	● ● ● ● ●
Transition area between Planning and Preservation areas; border issues	● ● ● ●
Does the Act constitute a takings in the Preservation Area?	● ● ● ●
For communities entirely in the Preservation Area, is there a need for a planning department?	● ● ●
How will communities meet COAH obligations in Preservation Area?	● ● ●
Timing of land use decisions	● ● ●
Is the MLUL preempted?	● ● ●
What role, if any, will Council play in tax appeals?	● ● ●
What about timing of land use approvals	● ● ●
What happens if an exemption to the Act is granted?	● ● ●
How will approval process work with DEP?	● ● ●
Will stabilization money stay the same or increase?	● ● ●

Legal Issues (Central Session)

Issue/Question	Dots
How will phasing/timing of development be affected in the planning area?	● ● ● ●
Will the Regional Master Plan quantify growth in the planning area and designate where that growth will go?	● ● ● ●
How can a built-out municipality generate new ratables?	● ● ●
Will Highlands Council provide experts in land use disputes?	● ● ●
How will previous land use case law impact the Highlands Act and vice versa?	● ●
Have the State defend local boards in cases seeking injunctive relief?	● ●
If there are development rights a municipality created pre-Act, how will they be affected?	●
How can a municipality undertake already planned development in the preservation area, particularly for municipal needs like a firehouse?	●
Is there a definitive map of the planning area/preservation area boundary?	●
How can a planning area municipality preserve open space/natural resources?	
Would legal protection be provided to an individual board member in his/her official capacity?	
Will the Highlands Act affect placement of cell towers?	

Legal Issues (South Session)

Issue/Question	Dots
Need to have workshops at planning board level regarding DEP rules	● ● ● ●
Will Council look at school funding issues? Regional versus sending/receiving schools?	● ● ● ●
Non-residential density – any analysis for commercial density?	● ● ●
What's the procedure for planning board review of applications where Highlands permit is necessary?	● ●
COAH obligation area in the Preservation Area – How can we meet our obligations?	● ●
Does Council have enough funding to implement the Act?	● ●
What about nonseverable buildable exceptions – what's the story in the preservation area?	● ●
Will growth areas lead to COAH litigation and builders remedy?	●
Does the 4% goal for TDR voluntary receiving zones include commercial development?	●
If municipality in both planning and preservation areas, will there be separate local master plans or integrated?	●
If town wants to be a receiving area, any incentives?	●
Are there degrees of opting in?	●
Will Council identify and recommend areas for development in the planning area and what are the incentives?	●
Education of municipal officials as to appropriate ratables type and number?	●
How do you deal with public uses in preservation area, like need for firehouse?	●
What's the affect of the Highlands Act on third round COAH numbers?	
Voluntary growth – What if we don't want it?	
Outline of the legal protections of the Act?	
Sewer in preservation area, environmental constraints in planning area. What to do?	
Under legal shield, what if current ordinance is strict – will there be protection?	
Process of revising local master plan – any financial assistance to redo?	
Can a township limit the transfer of TDR credits to using only those TDR credits generated in township (i.e. intra-township TDR)	

Environmental Protection (North Session)

Issue/Question	Dots
Pollution Source Identification and delineation as related to sewer, septic, pesticides, herbicides, fertilizer and others. Need to address out of state influences on pollution, such as NY in the Ramapo watershed.	● ● ● ●
Water quantity and quality protection and how enforcement/violations will be addressed. Need better enforcement of existing regulations regarding wetlands and septic system operation.	● ●
Protection of steep slopes will require flexibility for local land use decision making. For example, sometimes the sloped property may be the lesser of two evils.	●
Septic system management as related to lake communities and small lot development. The Pinelands model of Alternative septic design for small lot development should be evaluated as part of the RMP.	●
Wetlands protection	●
Endangered species protection for both upland and wetland areas.	●
Groundwater as a resource is taken for granted by local consumers. Need to make a stronger connection between local and reservoir needs and capacity.	●
Habitat protection, utilizing strategic open space acquisition to support habitat protection.	●
Carrying capacity analysis needs to be performed and based on sound science and rational decision-making. Needs to consider local, county and regional concerns.	●
Manage FAR of small lot single family homes surrounding lake communities. These communities are already experiencing the rehabilitation of small homes into “mcmansions” and it is affecting the character of the community as well as the socio economic balance.	●
Prioritization of the issues. All issues can not be equally addressed. Define how to best make decisions about land use decisions based on rationale thinking, science and local conditions. Address the “common sense” approach.	●
CCC – Coordination, Communication and Connection across state, regional, county, local and inter-agency partners need to be orchestrated and designed as part of the RMP.	
Preservation of Scenic Vistas and Ridgelines. Gather local input as to what they would like to identify or nominate for the Regional Master Plan (RMP).	
The development of the RMP needs to include community outreach and education. There is a great deal or mis-information and confusion out there that needs to be addressed.	
Additional resources are available for model ordinances in West Milford – min. disturbance ordinance, as well as wetlands, steep slopes and habitat assessment. Sussex County also has resources for RMP development.	

Environmental Protection (Central Session)

Issue/Question	Dots
Overlap of regulations needs to be addressed. Coordination of C-1, Storm water and Highlands Open waters.	● ● ● ● ●
Education/Awareness of RMP for local communities as a means to empower better local decision-making.	● ● ●
Re-evaluate water allocation for example unused water allocation is being sold to New York State from reservoir system.	● ● ●
Opt-in needs to be defined for Planning Areas; protection of resources in planning area and not forced to accept growth.	● ● ●
Funding for applying regulations required for compliance with Storm water, C-1 and Highlands open waters.	● ●
Aquifer recharge, Watershed/Riparian mapping and identification.	● ●
Failing septic systems need to be addressed; small lot concerns need to be addressed; infrastructure improvements need to be identified as well as funding.	● ●
Brownfield/Redevelopment areas identified as a means to match growth with local resources and regional growth patterns.	●
NRI/ANJEC source for local natural resource understanding.	●
Water Quantity as well as Water Quality needs to be addressed; reservoirs need to be evaluated.	
Monitoring/enforcement of wastewater systems	
Open Space acquisition needed	
Education/ Outreach needed	
Local pressure from COAH and residential growth	
Legal decisions must be informed by local conditions	

Environmental Protection (South Session)

Issue/Question	Dots
Water quantity and quality protection of “Plan” areas and how enforcement/violations will be addressed. Need better enforcement of existing regulations regarding wetlands, vernal ponds and septic system operation.	● ● ● ● ● ● ● ●
Wetlands protection via support in enforcement, timely response, C-1 mapping/buffer delineation. Better mapping of local resources than what currently exists.	● ● ● ● ●
Protection of steep slopes, ridgelines and view sheds (scenic vistas).	● ● ● ● ●
Identifying “Critical Landscapes” for preservation.	● ● ● ● ●
The density of development needs to be balance with the protection of natural resources in the Planning areas.	● ● ●
Limestone geologic features need to be considered and addressed.	● ●
Threatened and Endangered species and habitat protection.	●
Influence of sewer package plants on natural resources needs to be addressed. Nitrate dilution concerns need to be better matched with local geology limitations.	●
How will the RMP address developed areas within the Preservation area, such as Glen Gardner. This community has small lots, no sewer and is inconsistent with Preservation Area.	●
Balance redevelopment with local conditions.	●
RMP and policies need to scientific based and clearly understood. Local coordination and support is required for success.	
Strategic Open Space acquisition.	
Forest Protection	
COAH obligations of concern	
Inaccurate NJDEP wetland maps need to be addressed	
The rationale of the DEP septic rules needs to be evaluated	
Avoid TDR in environmentally sensitive areas	
Developer well test draw down protocols are of concern	

Agriculture and Forestry (North Session)

Issue/Question	Dots
Ag-Tourism addresses outreach, enhancement and support.	● ● ● ●
Address local/flavor of the Highlands communities' farm business. Be clear about what it is we can do and what we can not do.	● ● ●
Encourage, educate and support young farmers as a means to make farms sustainable. Document a roadmap for becoming and maintaining a farm in the Highlands. We need to build a future of farmers, no farms means no food. Currently, people are intimidated to go into farming, it is competitive with local and global economies and equity is in question.	● ●
Integration of agencies as related to Ag/Forestry policy development policies.	● ●
Wood lot Management Plans and Harvesting Plans need to be coordinated.	● ●
Protect the farmland. The 88 acres should be associated with farmland not forest lands, the rules got it backwards. Farm land is already targeted for development you just made it easier.	●
Define Best Management Practices that include education, training and support. Need an ordinance to address logging operations.	●
Address land equity concerns with education and compensation.	●
Establish Farmers roundtable to identify concerns and express to NJDEP.	●
Address niche agricultural practices; educate local officials including greenhouses. The 3%/9% impervious may be limiting for farmers as they respond to the global market economy.	
Value Added programs – NYC Green Market program build upon.	
Educate local officials about coordination and stewardship for farming and preservation lands; support with local ordinances; identify local forester as a resource (ex. West Milford has Town Engineer serve as local trained forester).	
State acquisition of preserved lands will not result in automatic hunting and ATV/trails; dispel myth	
Identify State logging oversight	

Agriculture and Forestry (Central Session)

Issue/Question	Dots
Management of deer, geese and invasive species.	● ● ● ● ●
Permanent funding and incentives to support Highlands farmers as a means to balance economic and natural resource protection.	● ● ● ● ●
Education as to what the Highlands Act means for agriculture and forestry activities.	● ●
Impervious cover limitations may prohibit farm needs and should be considered on an individual basis within the RMP.	● ●
Logging activities need to be controlled and enforced within the Planning and Preservation areas.	●
Forest Management plans need to be identified in the RMP and oversight protocols defined.	●
Adapting agriculture to the current market needs.	●
Dedicated funding for the preservation of woodlands not just farmland. Current farmland preservation monies are limited for wooded parcel purchase, ex. Forestry Farmland Assessment.	●
Mechanism for GIS data sharing so that resources throughout the region can be up to date with open space, farmland preserved and conservation land parcels.	●
Use Rutgers Cooperative Extension as a resource for local and municipal technical knowledge and training.	
Guidelines for farming in both the planning and preservation area including: pesticide management, impervious surface and coordinating regulators.	
Farm sustainability including Ag tourism, marketing support, value added products, etc.	
The incentive (tax relief) should be for utilizing your property as a conservation easement. People should be rewarded for not disturbing property.	
Use ANJEC and Morris Land Conservancy as a resource for development of the RMP.	

Agriculture and Forestry (South Session)

Issue/Question	Dots
Monitoring/Enforcement of forestry management plans; address land equity concerns as related to maintaining forestry/agriculture operations.	● ● ● ● ●
Planning area farms are vulnerable to development and communities are confused about how Highlands funding will work. The RMP must clearly define how funding and Preservation/Planning areas will work together.	● ● ● ● ●
Land values are increasing in Plan areas and decreasing in Preservation areas already. (Example: in Warren County already there is a 10 to 1 reduction in per acre value in Preservation.)	● ● ● ●
Sustainable agriculture operations; support "Right to Farm"; keep farmers as land stewards.	● ● ● ●
Funding for farmers to sustain operations; monies that are not dependent on current borrowing/lending protocols. Ex. Collateral/equity determinations.	● ● ● ●
RMP needs to address Forest Management Plans and current forestry conditions.	● ●
Invasive species management; replacement species management and improved ordinances to support appropriate management; deer management protocols for farmers.	●
Coordination amongst state agencies	
Immediate family member land transfer may be difficult	
Dedicated funding source for land preservation	
Current fence protocols for farmers as required by Soil Conservation and Dept. of Ag for stream protection are difficult.	

Model Ordinances (North Session)

Issue/Question	Dots
Need clearly defined permitting process for building permit and others such as variances.	● ● ● ●
Need harmonization of DEP, COAH & Highlands rules and process	● ● ●
Can municipalities adopt checklist which requires DEP approval first (verses conditional approval)?	● ●
Can someone come and review our ordinances to let us know what to keep and what to improve?	● ●
Need to eliminate unnecessary steps in permitting process.	●
How does a municipality move forward with master planning given the conflicting regulations and obligations like COAH?	●
If a municipality turned down application based on more stringent local ordinances (more stringent than Act & NJDEP conformance) can it be overturned?	●
In planning area, what can municipalities do to protect themselves re: ordinances for environmental sensitive lands?	
How does a municipality be pro-active to address development/economic issues?	

Model Ordinances (Central Session)

Issue/Question	Dots
What happens 20 years from now if town doesn't opt-in? Will large undeveloped parcels be forced to build at higher density because it's the only available property left?	●
Planning area seems to be a transition area between Highlands Region and non-Highlands area; will ordinances reflect this?	●
Where do municipalities draw the line with variances?	●
Ordinances needed for planning area even if municipality does not opt-in	
COAH, steep slopes & tree ordinances – if Council recommends them, how strong will they be?	
How to deal with “stacking” issues	
How to deal with ratables, age restricted housing, traffic costs	
How to notify new buyers of nonconforming or nuisance abutting uses	
How do municipalities deal with enforcement?	

Model Ordinances (South Session)

Issue/Question	Dots
Enforceability of local ordinances	● ● ● ● ● ● ● ●
Checklists with ordinances	● ● ●
Sole source aquifer protection	● ● ●
What about historic resources? Model ordinance should be provided	● ● ●
Tree removal ordinance for upland forest areas – penalties?	● ● ●
Steep slope protection ordinance	● ● ●
“Useable Area” ordinance	● ● ●
Municipal road maintenance (can municipalities pave?)	● ●
Groundwater protection	● ●
Expedited DEP approval process	●
Will planning area towns have choices other than to opt in?	●
Impervious surface	●
Redevelopment zones	
Local TDR ordinances	
Funding to help towns conform to Regional Master Plan?	
Is the Highlands approval a requirement for a “complete” application?	
Residency requirements?	
Septic design regulations	
Cell towers?	
Stormwater planning	
What about municipalities that have more restrictive regulations that what will be in regional master plan?	
Uniform application	
What about DEP standards – can municipalities be more stringent?	
Cultural landscape ordinances (i.e. for protection of scenic roads and bridges)	
Viewshed protection ordinance	
Limits on penalties per violation?	
Flood plain issues	

COAH/Affordable Housing (North Session)

Issue/Question	Dots
COAH should revisit the prior round obligations in the Planning Area in light of environmental constraints which will be identified in the Regional Master Plan.	● ● ● ● ● ●
Highlands Council rules, DEP regulations & COAH requirements should all be coordinated.	● ● ● ● ● ●
COAH is outdated!	● ● ●
Affordable housing should be built where it is needed – it should follow the Abbot money.	● ●
How can municipalities in the Preservation Area meet their Round 1 & 2 COAH obligations?	● ●
Preservation of environmental qualities is just as important as COAH obligations.	● ●
COAH obligations should be based only on land that is truly “developable.”	●
There needs to be coordination between the Highlands Council’s provisions and COAH, specifically as relates to steep slopes.	●
COAH is not helping anymore!	●
Greater density development which is encouraged by COAH is in conflict with reduced density encouraged by the Highlands regulations.	●
Reconsider previous COAH sites which are located in the Preservation Area.	
Towns have been trying to put COAH developments on the least developable lands.	
Housing obligations should be looked at regionally.	
Builders have been given an unfair advantage over municipalities – judges have caused this problem.	
It is questionable whether previously built COAH housing is affordable today – long term approach.	
Municipalities in the Planning Area need help in addressing their Round 1 & 2 and future Round 3 COAH obligations without having an undue impact on the environment	

COAH/Affordable Housing (Central Session)

Issue/Question	Dots
Reserve affordable housing that is created for local workers first, e.g., fire, police.	● ● ● ●
How do you build affordable housing in the Preservation Area?	● ● ●
All towns need more flexibility in dealing with affordable housing issues.	● ● ●
Where will the COAH share of previously approved developments be located?	● ●
Towns in the Preservation Area need more flexibility.	● ●
There is insufficient capacity in schools for the children generated both by COAH units and market rate units.	●
Can the money collected as impacts fees through the TDR program be used to pay for affordable housing?	●
Commercial development will generate growth share affordable housing obligations.	
It will be difficult to raise money in the Preservation Area, with densities of 1 unit per 88 acres, to help pay for affordable units.	
Need flexibility in considering how to deal with COAH obligations, e.g., more rehab units.	
The County Community Development Block Grant (CDBG) money could be used to help rehab units for COAH credit.	
There is competition for diverse land uses – commercial, residential, retail, etc.	
Planning Area towns do not want to be the “dumping ground” for what comes from Preservation Areas.	
Areas just outside of the Highlands Region will be feeling increased development pressure.	
Commercial development which may have gone into the Preservation Area prior to the Highlands Act will now move into the Planning Area.	
The Rockaway Valley Regional Sewerage Authority (RVRSA) is at capacity and will not be available for infill development and other types of development.	
The land that is left for development is marginal.	
Towns are losing previously affordable units to gentrification.	
Consider creating a regional housing authority for the Highlands – where could housing be located?	
How will towns be protected from lawsuits? – Reasonable assurances.	
Consider mixed use options, commercial on the first floor and residences on the 2 nd and 3 rd floors.	

COAH/Affordable Housing (South Session)

Issue/Question	Dots
How can municipalities pay for school costs for affordable housing units—can this be tied to fees associated with water usage?	● ● ● ● ● ●
COAH and the Highlands Council should provide a clarification and issue a guidance document for use by municipalities.	● ● ● ● ●
How can a town determine their Round 3 impacts prior to the preparation of the Regional Master Plan?	● ● ● ● ●
Make certain that COAH considers environmentally sensitive land when looking to identify developable land.	● ● ● ● ●
The Regional Master Plan should look at the effects on local and regional school funding.	● ● ●
There is no place for inclusionary developments within PA-1 & PA-2.	● ● ●
Can other mechanisms for delivering COAH housing be investigated? – for example, group homes.	● ● ●
Need clarification on how to calculate 3 rd round numbers.	● ● ●
Will growth share guide COAH obligation in both Preservation and Planning Area towns – how will this be quantified?	● ●
How will TDR affect the obligation of receiving area towns' affordable obligation?	● ●
Should prime agricultural soils be preserved in the Planning Area and not be considered	● ●
What will become of existing population and employment projections in the Preservation and Planning Areas?	● ●
Will the Preservation Area fair share be re-directed to the Planning Area?	●
Given the enhanced standards, COAH sites within the Preservation Area are not developable.	●
How do Preservation Area towns meet prior round obligations when previously identified affordable housing sites are no longer “developable?”	●
Do all types of affordable housing count as contributions to COAH numbers?	
Does Round 1 & 2 excess affordable housing count toward Round 3 obligations?	
How do you calculate build-out with lot size averaging?	
How does the Highlands Council take into account updates of local master plans?	
Require COAH housing upfront from developers. Rather than requiring one affordable unit for every 8 market rate units, require one for every 5 market rate units. This would make certain that the affordable units are available before market rate is built-out.	
Where in the Preservation Area can a town's prospective fair share be located?	

Infrastructure Capacity (North Session)

Issue/Question	Dots
Green Technology should be utilized in new infrastructure!	● ● ● ● ● ●
There is inadequate maintenance of septic systems.	● ● ● ●
Localities need assistance with scientific analysis of available groundwater supply.	● ● ● ●
Schools are an element of infrastructure – What are the limitations?	● ●
How can Municipal facility needs be met in the Preservation Area, i.e., DPW Yard or Helipad?	● ●
Septic maintenance should be mandatory – pump-out every 3 years.	● ●
Need public transportation in growth areas to service the recreation opportunities within the Highlands.	● ●
Municipalities in the Planning Area need assistance with wastewater planning.	●
Railroads can provide public transportation in existing developed areas – not to encourage further growth.	●
Need water for emergency management, such as fire emergencies.	
Existing lake communities are serviced by wells and septic systems that are on overload!	
The plume from MTBE spills from gas stations is a problem – siting of gas stations should be considered in the Regional Master Plan.	
There ought to be coordination with other States, such as New York and Pennsylvania, regarding public transportation	
Moving people through the Highlands should not have a detrimental impact on Highlands communities.	
Need transportation money in rural communities.	
The rail corridor could service recreation in the Highlands.	
A railroad to serve recreation should have limited stops – don't encourage new growth.	
Public transportation should serve existing residents.	
There should be incentives for utilizing green technology.	

Infrastructure Capacity (Central Session)

Issue/Question	Dots
Failing septic systems are a big problem in the Highlands.	●●●●
Should consider advocating alternative treatment systems, for example, innovative solutions.	●●
Increase the capacity of the RVRSA to its original design capacity (25 million gallons per day).	●●
Small lots (ex. 1/3 acre) that currently have septic systems with problems need some sort of replacement.	●
The NJDEP should break out of their current mindset and be open to alternative solutions.	●
Rail lines, such as the Lackawanna Cut-off which goes from Landing to the Delaware Water Gap, would help reduce road traffic. The line would need to be built – it is only a R.O.W.	●
Schools should be considered to be an element of infrastructure.	●
The rules and regulations regarding water and sewer infrastructure are confusing.	●
Existing sewage treatment systems could be converted to new technology which would ultimately improve the water supply.	●
Water that goes out of the Highlands should be brought back in at the end of the process – don't dump it in the Atlantic Ocean; don't let it continue to be a depletive consumptive process.	●
Plan for new technology.	●
Consider watershed impacts from all developments.	
Failed septic systems may lead to the need for new sewers.	
The Highland Council should advocate for “cutting edge” sewage treatment technology.	
Utilize grey water systems, Need to rehabilitate some of the Highlands roadways.	
Overhead wires should be retrofitted to go underground.	
The Susquehanna Line parallels the Route 23 corridor and could help reduce traffic on that road.	
There should be a reasonable test for road capacity.	
There should be exemptions in the Preservation Area for transportation projects.	
Create stormwater management utility authorities.	
Provide funding for infrastructure maintenance- study old infrastructure systems before problems arise – be proactive in maintenance	
Adopt a septic maintenance program.	
Adopt regulations for septic systems in lake communities.	
Consider a home well testing program – negative effects may be coming from adjacent properties.	
Look at the schematics of water pipe systems in order to figure out how to bring the water back into the Highlands.	
Eliminate septic systems where possible.	
Prevent stormwater from going into sewage treatment plants (combined sewer overflow).	
Consider Capacity Assurance Program when implementing TDR.	

Infrastructure Capacity (South Session)

Issue/Question	Dots
There is an inequity between who gets the benefits and who bears the costs of Highlands water.	● ● ● ●
There are water and sewer limitations in the Planning Area.	● ● ●
Should expand receiving areas beyond the 7 Highlands Counties where infrastructure is already in place.	● ● ●
Existing developed towns need funding for infrastructure to accommodate new growth – all types of infrastructure, including community services, libraries, health services.	● ● ●
Regional High Schools need to be as a type considered infrastructure and need funding from outside the area.	● ● ●
Rail transportation, as well as general transportation, is an element of infrastructure that the Master Plan should address.	● ●
Consider the impact on Preservation Area towns from development in Planning Area towns and how it relates to regional schools that serve both.	● ●
Wastewater treatment capacity of septic systems should be looked at and septic maintenance considered a priority – homeowners need to be educated about proper septic maintenance.	●
Route 78 is over capacity.	●
Need to address the reliability of the water supply – changing yields.	●
Limestone is an environmental consideration that should be included in mapping constraints (Clinton Twp and Green Twp have good ordinances).	●
Wastewater Management Plans are outdated, unfounded and currently being amended.	●
Rural towns have limited capacity for new development.	●
Septic System Management is more than just pumping out septic systems on a regular basis.	●
Warren County Community College should be included as a type of infrastructure and should be expanded to a 4 year college – try to provide a needed educational service within the area.	●
How can the Regional Master Plan allow a town in the Planning Area to grow even if it doesn't currently have adequate infrastructure (a menu of options).	●
Rail service should be extended west from High Bridge through Warren County	
Rail service should be used to alleviate road traffic, e.g., the Lackawanna cut-off.	
Getting amendments to Wastewater Management Plans is a burdensome process.	
The TDR Program needs to consider the lack of infrastructure in rural towns.	
The State Plan and Highlands Plan should be coordinated as relates to infrastructure in Designated or identified hamlets, villages, towns and centers.	
Designated Hamlets, Villages, Towns and Centers should be reviewed for accuracy – should they retain their designations?	

Appendix B

List of Partnership Meeting Participants

Participants by zone

North

Jim Armstrong
 Joanne Atlas
 James Benson
 Jon Berry
 John Biale
 Robert A. Brady
 John Brotherton
 Brian Campion
 Thomas F. Carroll
 Steven Cea
 Mark Cirillo
 Barbara F. Corzine
 Jerry Crean
 Eskil Danielson
 John DaPuzzo
 Frank N. Dolce
 Joy Farber
 Marie Fletcher
 Christine Foster
 Michael Francis
 Ted Gall
 Edward Gilson
 George Hagl
 William C. Hookway, III
 Martin E. Hughes
 Erich H. Kamm
 Kathleen M. Caren
 Maria Kent
 Jim Kilduff
 Donna Kurdock
 Richard Lepre
 Tom MacAllen
 Teri Massood
 Margaret McGarrity
 Kathy McGinnis
 Carl Miller
 Craig Ollenschleger
 Stuart Ostrow
 Arthur Pierfy
 Carl Quazza
 Frank Rotunda
 Stephen Sangle
 Vi Shipley
 George Shivas
 Linda Shortman
 Andrew Silverstein
 Edward W. Simoni
 Marianne Smith

Central

Barry Ableman
 James Brown
 William Budesheim
 James Buell
 Buraszkeski
 Karen Coffey
 Larry Cohen
 Nanette Courtine
 Barbara Davis
 William Deane
 William Denzler
 Morton Dicker
 Sally Dudley
 Jeff Duncan
 Joseph Falkoski
 Bud Fehr
 Tricia Fragale
 Ralph Goodwin
 Bernhard Guenther
 Joseph Heywang
 Judith Hirky
 Paul Hollick
 James Humphreys
 Wayne Jacobus
 R. Gregory Jones
 Kenneth Kasper
 Walter Kirch
 Walter Kullen
 Theodore Largman
 James Leach
 Sara Dean Link
 John Lovell
 John Mania
 Dolores Martin
 Pat Matarazzo
 Kathy Murphy
 John Murray
 Allen Napolliello
 Catherine Natafalusy
 Arthur Neff
 Kenneth Nelson
 Sara Jane Noll
 Margaret Nordstrom
 Stephen O'Mara
 Arthur Ondish
 Gene Orcutt
 John Palko
 Ralph Phodes

South

Victor "Bud" Allen
 Frank Arch
 Stephen Babinsky
 David Banisch
 Carol Bastow
 Betty Ann Bechtold
 Mike Bolan
 Tom Borkowski
 Jeffery D. Bruinooge
 Karen Buckley
 Bob Bzick
 Nancy L. Chambellan
 Thomas K. Charles
 Kevin Cimei
 Shana L. Crane
 Nina Crivello
 Becky D'Alleinne
 David Dech
 Douglas Diehl
 Gary DosSantos
 Antje Doyle
 Charlie Duffy
 Janice Eppler
 Michael Ferri
 Paul Ferriero
 William J. H. Foster
 Sherry Frawley
 Wilma Frey
 Robt I. Frey
 Harry Fuerstenberger
 Vincent A. Girardy
 Donald Goehle
 Eileen Greason
 Gil Greene
 William E. Hann, Jr.
 Deborah M. Hirt
 Carol Hoffmann
 J. Matthew Holt
 James Imbriaco
 John R. Jimenez
 Skip Jonas
 Thomas G. Kenyom
 James E. Kesler
 Mark W. Kirby
 Donald Knudsen
 Thomas Koven
 Laurette Kratina
 Danielle Krone

North

Eric Snyder
 Evelyn Spath-Mercado
 Betsy Stagg
 Adam Strobel
 John P. Szabo, Jr.
 Wenke Taule
 Michael Tfrank
 Santo Berrilli
 Richard A. Vohden, Jr.
 Robert M. Walker
 Scott Wallis
 William Walsh
 Craig Williams
 Ted Williams
 Lorraine Bender
 Bruce Rossi
 Dinah M. Rush
 Sam Santini
 Betty Schultheis
 Kenneth Schwartz
 Richard Sheola
 Gregory A. Sipple
 Eric Sween
 Alan Thomson
 Judy Thornton
 Marianne VanDeursen
 Garrett Van Vliet
 Susan Wagner
 Daria A. Wasserbach
 Mike Wright
 Maureen Zeglen
 Nick Zripko
 Jack Reed
 Anne Blaine

Central

George Ritter
 W. Daniel Saragnese
 Martin Schmidt
 Craig Schwemmer
 Joanne Sandler
 Bernard Senger
 Adam Slutsky
 Frank Stimmler
 Donald Storms
 Dick Tighe
 Sandy Urgo
 Paul VanGelder
 Tracy Wadhams
 Gary Webb
 Dana Wefer
 Gerald Weisberg
 Marlene Wendolowski
 Richard Zoschall

South

Gary MacQueen
 John Matsen
 Tim Matthews
 William A. Miller
 David Mills
 Miriam Murphy
 Richard Myers
 Bradley Myhre
 Harry Noble
 Pap Pappa
 Doris Rayna
 Robert J. Resker
 Steve Romanowitch
 Bernie Rooney

Highlands Council Members:

Chairman John Weingart, Vice Chairman Jack Schrier, Kurt Alstede, Tracy Carluccio, Lois Cuccinello, Tim Dillingham, Janice Kovach, Mimi Letts, Debbie Pasquarelli, Mikael Salovaara, Ben Spinelli, Eileen Swan, Glen Vetrano, and Scott Whitenack.