

MINUTES

NEW JERSEY HIGHLANDS COUNCIL MEETING OF FEBRUARY 9, 2006

PRESENT:

JOHN WEINGART) CHAIRMAN
KURT ALSTED) COUNCIL MEMBERS
ELIZABETH CALABRESE)
TRACY CARLUCCIO)
JANICE KOVACH)
MIMI LETTS)
DEBBIE PASQUARELLI)
JACK SCHRIER)
GLEN VETRANO)
SCOTT WHITENACK)

PARTICIPATING VIA TELECONFERENCE:

LOIS CUCCINELLO
MIKAEL SALOVAARA

ABSENT:

TIM DILLINGHAM
BEN SPINELLI

The following are the minutes from the New Jersey Highlands Council meeting which was held at 100 North Road, Chester, New Jersey on January 19, 2006 at 4:00 p.m.

CALL TO ORDER:

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

ROLL CALL: The members of the Council introduced themselves.

PLEDGE OF ALLEGIANCE was then recited.

OPEN PUBLIC MEETINGS ACT:

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

EXECUTIVE SESSION:

Chairman Weingart noted that the next item on the meeting agenda was Executive Session, listed on the agenda as Personnel matters, and at 4:15 p.m. Mr. Jack Schrier made a motion to go into Executive Session, Ms. Janice

Kovach seconded, all were in favor, APPROVED.

At 5:05 p.m. Chairman Weingart called the meeting back to order.

CONSIDERATION OF RESOLUTION APPOINTING EXECUTIVE DIRECTOR (voting matter):

Mr. Weingart advised that during Executive Session the Council discussed the appointment of an Executive Director since Mr. Adam Zellner recently resigned as Executive Director of the Highlands Council to become Deputy Commissioner at the New Jersey Department of Environmental Protection. He advised that the Personnel Committee has met and interviewed prospective successors and now makes its recommendation through the resolution before the Council.

Mr. Weingart read aloud to the Council and public the proposed resolution to appoint Mr. Dante Di Pirro as Executive Director at an annual basis of \$120,000, and to appoint Mr. Tom Borden as Deputy Executive Director at an annual basis of \$118,000.

Mr. Schrier made a motion to approve, Ms. Letts seconded. Mr. Weingart asked if any members wished to comment, and Mr. Schrier noted that he met Mr. Di Pirro several years prior when the Highlands Task Force was created and said that Mr. Di Pirro was a great asset to the work of the Task Force. Mr. Schrier stated that Mr. Di Pirro's talent and extensive knowledge of the legislation and its goals are a true benefit to the Highlands Council. He added that the Council was fortunate to have Mr. Di Pirro as its new Executive Director and congratulated him on his nomination.

No members of the public wished to comment on the resolution. On the prior motion made and seconded, Ms. Debbie Pasquarelli and Ms. Janice Kovach opposed, all others were in favor, and the resolution was APPROVED 10 to 2.

At that time Ms. Lois Cuccinello and Mr. Mikael Salovaara disconnected in order to attend to other matters.

APPROVAL OF MINUTES (January 5, 2005):

Mr. Jack Schrier made a motion to approve, Ms. Janice Kovach seconded, all others were in favor, APPROVED.

CHAIRMAN'S REPORT:

Mr. Weingart then reported that Ms. Eileen Swan has resigned from membership on the Highlands Council to accept the position of Director of the Office of Smart Growth for the Department of Community Affairs. In light of her departure, Ms. Pasquarelli will replace Ms. Swan as Chair of the Land Conversation Committee. Mr. Weingart also noted that he has appointed Ms. Elizabeth Calabrese to the Natural Resources and Smart Growth Committees, and added Ms. Letts to the Personnel Committee.

Mr. Weingart noted that several dates on the adopted meeting schedule for 2006 may need to be changed and asked that, before changes are considered, Council members review the schedule and asked they let him or Ms. Erin Thomsen know whether they know of any meeting dates on the current schedule that they will have to miss.

Mr. Glen Vetrano thanked everyone who attended the Sussex County tour on February 7th. He noted that it was a great opportunity to see some of the planning endeavors which are taking place throughout the county and he thanked Mr. Di Pirro and Mr. MacDonald for helping with the arrangements.

Mr. Weingart noted that he signed a letter addressed to the New York District of the United States Army Corps of Engineers in support of proposed grant funding for a comprehensive analysis examining the multi-jurisdictional use and management of water resources in the Highlands Region.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Di Pirro announced that through the work of Highlands staff members, Mr. Mat Curtis and Ms. Erin Thomsen together with himself, an enhanced and improved Highlands website has been designed and created. Mr. Di Pirro and Mr. Curtis then gave a power point presentation and demonstration of the new website which is scheduled for launch the following week. The new site will provide many new features and is easy to navigate.

Mr. Weingart thanked them for their presentation and opened a public comment period.

PUBLIC COMMENT PERIOD:

Barry Farquhar. Mr. Farquhar is a resident who owns 20 acres in Chester. Mr. Farquhar stated that he has not attended previous Council meetings but has followed stories in the press about the Highlands. He said the Council is charged by law to enact a plan to preserve New Jersey's water supply, but wanted the Council to realize that the people in the preservation area like him are losing large amounts of money.

Ann Wolfe, Mahwah. Ms. Wolfe provided an informational packet to the Council members and said that on page 4 of the packet was a letter written by Mahwah Mayor Martel dated May 14, 2004 addressed to Senator Smith and copied to Senator McNamara suggesting boundary language in the Highlands Act pertaining to Vista Bahn. Mr. Schrier asked whether she was stating that the language be changed, or the boundary changed. She replied that the language is what needs to be changed.

Hank Klumpp, Tewksbury Township. Mr. Klumpp is a farmer in Hunterdon who owns 150 acres in the Preservation Area. He said he has been attending Council meetings for four months and said that he believes the master plan should not be drawn in a hurry because it will be incomplete. He said that he is still waiting for the science behind why his farm was placed in the Preservation Area.

Rennie Rothpletz, Tewksbury. Ms. Rothpletz noted that her property, known as Hillendale Farm, is 420 acres and is in both the Preservation Area and the Planning Area. She raises beef and she also rents space out from her former dairy farming barn to horse trainers. She said that her family has farmed for 30 years and has experienced a steady decline in income. Ms. Rothpletz advised that farming in New Jersey has suffered. She offered her comments in writing.

Jim Matarazzo, Tewksbury. Mr. Matarazzo advised he has a 38 acre farm, on which he converted a grist mill into a house. He asked what reservoir the Rockaway Creek feeds into because he thought it flows into the Raritan and then out to sea so he questions why it is included in the Preservation Area. Mr. Matarazzo noted that he has used organic practices and has been farming for 30 years. He also believed the Highlands Act's intended purpose is a good one, but there is no budget to support it. He'd like to take the house envelope which is currently 150 feet from the Rockaway Creek, and move it 500 feet away from the creek, but he says the Act won't allow it. Mr. Matarazzo said he would like a panel created with the power to grant exceptions.

Ross Kushner, Pequannock River Coalition Director. Mr. Kushner noted he is concerned with the water capacity aspects of the scoping document because the Pequannock River is in peril. He objected to the proposed method in the scoping document using 7Q10 because the flow in the river is zero at certain points. He stated that that approach did not include a margin of safety. Mr. Kushner stated that a water capacity study must be the cornerstone to the master plan.

Jeff Broadhurst. Mr. Broadhurst owns 130 acres in the Preservation Area and asked when the agriculture technical advisory committee will meet again. He believes that farmers are not represented adequately. Mr. Broadhurst said they need to be given the opportunity to be at the table and thinks more farmers and foresters should be working with the Council. He offered his comments in writing to the Council.

Andy Drysdale, Chester. Mr. Drysdale said he attended the DEP public meeting and overheard that there is a possibility that regulations will be enacted to prohibit the cutting of firewood. He said that there is so much dead wood and so many dead trees that if property owners are prohibited from cutting and removing them from their land themselves, and would be fined for doing so, that it will not result in an improvement. Mr. Drysdale noted that if left uncut and on homeowners' properties, it could promote insect infestations and he doesn't believe the state is prepared to undertake removing dead wood from private properties. He offered his comments in writing to the Council.

Mr. Weingart thanked the public for their comments and next introduced Mr. Steve Balzano to introduce the next agenda item. Ms. Kovach then excused herself to attend another meeting.

Mr. Balzano introduced Mr. Jeff Le Java to give a presentation on the transfer of development rights ("TDR").

DISCUSSION OF SCOPING DOCUMENT, POLICY MATRIX, AND FRAMEWORK FOR REGIONAL MASTER PLAN, INCLUDING FOCUS ON TRANSFER OF DEVELOPMENT RIGHTS:

Mr. Le Java gave a power point demonstration addressing the requirements in the Highlands Act pertaining to TDR. The demonstration explained the transfer of development rights process which will be designed to purchase development rights from willing landowners who have properties within the Preservation Area. The development rights purchased in these sending areas will be transferred through a TDR bank to voluntary receiving areas where additional development potential is created.

There are 83 municipalities which are qualified to be voluntary TDR receiving areas in the Planning Area totaling 443,452 total acres. In addition, there are 213 municipalities which are qualified to be voluntary TDR receiving areas outside the Planning Area and Preservation Area but within the seven Highlands counties totaling 1,226,798 acres. Mr. LeJava noted that the scale the Highlands TDR program will be the largest in the country.

Mr. LeJava, Mr. Di Pirro, Mr. Balzano and Mr. Borden answered the members' questions throughout the course of the presentation. The power point demonstration will be accessible through the Highlands Council's website.

COMMITTEE REPORTS:

Mr. Weingart advised Mr. Dillingham was not present to report on the **Natural Resources Committee** which met on January 30, 2006 at the Highlands Council's office in Chester, but that members would find the complete Committee Chair Report in their meeting packets.

Mr. Weingart advised that Mr. Spinelli was not present to report on the **Smart Growth and Economic Development Committee** which met on January 30, 2006 at the Highlands Council's office in Chester, that members would find the complete Committee Chair Report in their meeting packets.

Ms. Pasquarelli next reported on the **Land Conservation Committee** which met earlier that day at the Highlands Council's office in Chester. She advised that the committee discussed forming a mechanism in order to get land owners together and that the Council would facilitate a meeting in March. Ms. Pasquarelli noted that the committee wants an appropriate program with an overview of mechanisms for preservation funding such as

SADC and Green Acres, with representatives of both agencies in attendance to provide input. She asked that if anyone has suggestions on outreach to contact Ms. Laura Szwak or herself.

Mr. Weingart thanked Ms. Pasquarelli for her report and then turned the meeting to Mr. Balzano for an outline of the next resolution for consideration.

CONSIDERATION OF RESOLUTION REGARDING GRANTS TO MUNICIPALITIES AND COUNTIES (voting matter):

Mr. Balzano noted that the Highlands Council has authority to grant funding assistance to counties and municipalities. He stated that the staff recommends that the Council grant to the Township of Harmony an amount not to exceed \$7,500 for its third round COAH obligations; and

To grant the County of Passaic a planning grant not to exceed the following amounts: Sewer and Water Service Area Mapping \$17,500; Parcel Coverage and MOD IV Reconciliation \$20,000; and the Identification of Outstanding Approved Projects \$12,500.

Mr. Glen Vetrano made a motion to approve, Ms. Pasquarelli seconded, all were in favor, APPROVED.

PUBLIC COMMENT PERIOD:

David Shope, Long Valley. Mr. Shope asked the Council to provide him with a copy of their letter to the Army Corps. He said he also wants to know what the other three states in the Highlands are doing and asked how much federal funding would be coming to New Jersey. Mr. Shope said that he feels that the Preservation Area is fixed in time in 2004 and that another methodology for property valuation should be utilized.

Steve Shaw, attorney representing Hunterdon and Warren Counties. Mr. Shaw read from a portion of the Highlands Act requiring the Council to identify areas that are appropriate for receiving and sending development rights. He asked what the Council's authority is for not completing this task. Mr. Borden advised that the Council is completing the necessary requirements pursuant to the Act, that the Smart growth Committee will be addressing this requirement and their next meeting, and that the Highlands Council will consider this issue at the Council meeting on February 23rd.

Tom Dallessio, Regional Plan Association. Mr. Dallessio thanked the Highlands staff for its TDR presentation. He briefed the Council on some upcoming RPA events. He noted that the Lincoln Institute for Land Policy has been working with RPA to assess commercial land values. Mr. Dallessio said they are also looking at property tax reform and will conduct at least one case study in the Highlands. He noted that RPA will be holding a mayors institute in May and June. With regard to the TDR presentation, Mr. Dallessio asked what the definition of substantially undeveloped or unimproved was. He also offered assistance to the Council.

Sylvia Kovacs, Independence Township. Ms. Kovacs said that she attended the two committee meetings on January 30th and found that the level of attention to detail on science and policy issues at the meetings was very beneficial to observe. She noted that Ms. Carluccio's advocacy at the meeting for the inclusion of a hydro-ecological integrity pilot in the water resources portion of the water assessment was reassuring. Ms. Kovacs thanked the staff for their vigilance.

Hank Klumpp, Tewksbury. Mr. Klumpp believes that since the money is not in place to reimburse landowners the Council should have more time to write the plan because he doesn't believe that amendments after plan enactment will be sufficient to address problems.

Jerry Kern, Pohatcong Township, 70 acres in preservation area. Mr. Kern noted with reference to a member of the public who spoke earlier that mentioned she believed the Mayor of Mahwah made a mistake, that he believes his mayor made a mistake as well as to boundaries. He noted that the concern he has with the TDR program is the fact that there is a deadline of March 29, 2004 for approvals but that August 9, 2004 is the date that property assessments will be based on. He said since he technically lost control of his property back on March 29th why are property assessments being made as of August 9th. Mr. Borden noted that the March 29th date pertains to one of the Highlands Act exemptions, and that the August 9th date, the day before the Act was passed, is one of the elements that but be considered in the establishment of TDR valuation.

James Kessler, Mansfield Township. Mr. Kessler asked for clarification of the dates for TDR and noted that the Act refers to January 1, 2004. Mr. Borden said that the Highlands Act requires that appraisals for the Green Acres and farmland preservation programs use both the date of the proposed acquisition and January 1, 2004 and that the higher of these numbers be used as a basis for negotiation with landowners.

David Tullo, Lebanon Township. Mr. Tullo owns a 140 acre farm. He noted that he objects to the DEP regulations, in particular the 88 acre zoning requirement. It was his opinion that the restriction is not supported by the facts as to sewage infrastructure. Mr. Tullo believes there should be a tax imposed on residents outside the Highlands who benefit from the water resources they receive from the property owners in the Highlands. Mr. Tullo said Highlands property owners are being penalized by the Act's restrictions and that monetary compensation is the only remedy for the losses incurred. He provided his comments in writing.

Rich Longo, Boonton Township, Highlands preservation area. Mr. Longo said that he bought his wife's property in 1976. He noted that his daughter is the 9th generation of his wife's family to live on the farm. Mr. Longo had planned to give the land to his daughter and granddaughter and has fought off developers and contractors for many years to protect the land without legislation requiring him to do so. Mr. Longo advised he has never attended a Council meeting before and has come to ask the Council to assist the land owners that are losing their property values.

Mr. Weingart thanked the public for their comments and since no others wished to speak, he noted that the next meeting of the Council would be at 10:00 a.m. on February 23rd.

ADJOURN:

Ms. Letts made a motion to adjourn, Mr. Vetrano seconded, all were in favor, and the meeting ADJOURNED at 7:25 p.m.