

MINUTES

**NEW JERSEY HIGHLANDS COUNCIL
MEETING OF SEPTEMBER 21, 2006**

PRESENT:

JOHN WEINGART)	CHAIRMAN
KURT ALSTEDE)	COUNCIL MEMBERS
ELIZABETH CALABRESE)	
TRACY CARLUCCIO)	
TIM DILLINGHAM)	
MIMI LETTS)	
JACK SCHRIER)	
DEBBIE PASQUARELLI)	
MIKAEL SALOVAARA)	
GLEN VETRANO)	
SCOTT WHITENACK)	

ABSENT:

JANICE KOVACH

The following are the minutes from the New Jersey Highlands Council meeting which was held at 100 North Road, Chester, New Jersey on September 21, 2006 at 10:00 a.m.

CALL TO ORDER:

The Chairman of the Council, Mr. John Weingart, called the 34th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:05 a.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.

MINUTES OF SEPTEMBER 14, 2006:

Mr. Jack Schrier made a motion to approve, Mr. Mikael Salovaara seconded, no members opposed, no comments were received, Mr. Glen Vetrano and Ms. Elizabeth Calabrese abstained. There were ten members present on the motion, therefore, the minutes could not be approved without a quorum. Ms. Pasquarelli arrived at 10:20 a.m., the prior motion made and seconded was readdressed. All were in favor, with Mr. Glen Vetrano and Ms. Elizabeth Calabrese abstaining, and the minutes of September 14, 2006 were APPROVED.

CHAIRMAN'S REPPORT:

Chairman Weingart reported to the members that it was likely that by the Council's next meeting two new members would be joining them. The Senate Judiciary Committee met on September 18th, 2006 and approved Ms. Tahesha Way and Mr. Erik Peterson for consideration by the full Senate on September 25th, 2006. Mr. Weingart further advised that Ms. Way and Mr. Peterson were present in the audience as well.

Mr. Weingart advised the members of several documents they would find in their meeting packets including written comments from the Farm Bureau, as well as a written summary of the comments at the public availability session held the previous week. He noted there was also an informational brochure regarding an upcoming New Jersey regional planning conference on September 28th and 29th. Also included in the meeting packets were two letters to Governor Corzine, one which thanked him for addressing the Council at its meeting the week before, and also a letter regarding the Council's position regarding the Garden State Preservation Trust.

Mr. Weingart noted the work session would focus on 4 specific policy issues, and that the smart design standards document noted on the agenda would not be addressed, as it was not yet ready for the Council's review. Mr. Weingart advised that a public availability session would be conducted immediately following adjournment of the work session at 4:00 p.m., and that at 5:00 p.m. the Local Participation Committee would meet.

Mr. Weingart asked if any members had reports, and none did. He then noted that a press release was being prepared regarding the announcement of agricultural grants which the Council will make available to Highlands municipalities and counties, and that a letter regarding same would be sent to all county agricultural development boards. The press release also explains that the applications would be due between the present time and January 1st, 2007. He noted that this information will also be posted on the Council's website.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Dante Di Pirro reported that within the next couple weeks a water resource engineer would be joining the staff to assist with plan development guidelines and standards, as well as regulatory review of applications.

Mr. Weingart then turned the meeting to Ms. Mimi Letts for the first committee report.

COMMITTEE REPORTS:

Ms. Letts reported that the **Local Participation Committee** met on September 14th, 2006 prior to the Council's work session. The committee discussed the requirement of the Highlands Act that the Council conduct six public hearings prior to approval of the Regional Master Plan, with one meeting to be held in Trenton. She advised that several venues were suggested and examined, as was the need to obtain large rooms that would accommodate up to 250 people or more. Ms. Letts also advised that Ms. Patty Sly has been following up on some of the venues suggested. The committee also addressed what time the sessions would be held, some being

scheduled for the evening and some during the day. She noted the proposed format for the sessions would be to have staff provide an introduction and brief overview and then provide as much time as possible for comments. Ms. Letts said the committee also discussed the need to get information out prior to the sessions to allow maximum input from the public. She noted that compact discs containing information about the plan would be made as soon as the draft is approved to be provided to the public. Ms. Letts advised that the committee would also be scheduling outreach sessions with county and municipal officials to educate and provide information about the plan and also obtain their input. Ms. Letts noted that the committee would be meeting again that day after the work session and public availability session ended.

Ms. Pasquarelli reported on the **Land Conservation Committee** which met on August 8th, 2006. She suggested that the members review the letter to Governor Corzine within their meeting packets. The primary goal at the meeting was to discuss what efforts could be undertaken to ensure the reauthorization of the Garden State Preservation Trust. The committee examined actions and key points which the Council could recommend and a consensus was achieved which is reflected in the letter. Ms. Pasquarelli said there is a great need for an extension of the 2009 sunset provision in the Highlands Act for purposes of appraisals and determining pre-Highlands Act values. The committee also focused on what the possible impacts were to lands preserved under existing Green Acres, SADC and SHPO program rules, and how lands the Council designates in the RMP for conservation or preservation will fall outside of those programs' eligibility and the committee recommends that the trust take measures to protect these properties. Ms. Pasquarelli said the committee further recommends that the trust funds be used to capitalize the Highlands TDR program. She noted that necessary immediate activities were completed to request the Governor's assistance with reauthorization of the trust.

Ms. Pasquarelli, next reported on the **Budget & Finance Committee** which met on August 31st, 2006, at its first meeting after the end of fiscal year 2006. She advised that the fiscal year 2006 reports were reviewed and finalized by the committee, and said that a package reflecting the Council's funding history and how funds were obtained and utilized toward start-up costs of the Council and all expenditures, has been initiated by the staff. The committee next began work on development of the fiscal year 2007 budget. Ms. Pasquarelli noted that the committee members examined preliminary allocations of the Council's \$3 million dollar State appropriation, and reviewed costs as to operating budget as well as costs for the Regional Master Plan budget. Ms. Pasquarelli noted that the committee reviewed the first draft of the FY 2007 budget packet and advised that staff will continue to update and finalize that information to be presented to the Council for its review.

Mr. Weingart next advised the order of topics under number 9 on the agenda would be reordered with steep slopes being first. He also noted that the documents being examined were available to the public on the receptionist table in the lobby.

DRAFT RMP WORK SESSION TOPICS:

Steep Slope:

Mr. Di Pirro noted that staff will identify the items throughout each of the documents and reference by number what area is being introduced in order to assist the public to follow along with review of the materials. He said that Mr. Balzano and Ms. Chris Ross would present.

Mr. Balzano thanked the staff for their extraordinary dedication and energy that they have extended toward the work sessions. He further applauded the high level of flexibility they have shown while preparing complex items for the work sessions and noted how proud he was of their efforts. He also extended gratitude to Mr. Ron Farr and Mr. Dag Madara from North Jersey District Water Supply Commission who have worked diligently and quietly behind the scenes on their own time at no cost to the Council, and said that their assistance and input has been invaluable. He introduced Mr. Farr at that time to the Council.

Mr. Balzano introduced that as to steep slope and resource constraint issues there are essentially three goals to accomplish. Staff will provide recommendations to the Council to obtain its input as to what constitutes the resource being examined. Steep slopes will be examined in percentages to define the resource. The second goal is to describe how each resource defines the Land Use Capability Map (LUCM). He noted that third to be identified moving forward with conformance and application review process, will be what standards are necessary to apply in order to protect the resource. Mr. Balzano said the immediate focus should be concentrated on individual resources, defining the resource, define how it will inform the map, and define what standards to apply for future protection of that resource.

Mr. Balzano said that policy recommendation number one is to recognize steep slope as an important required element of the RMP, and recognize its use in developing the LUCM. The recommended standard to inform the LUCM is for protection of steep slopes at or above 15%. Mr. Balzano noted significant past discussions related to the DEP standards within the preservation area. Those standards range from above 10% but for planning purposes of informing the LUCM, it is recommended to use 15% as the benchmark to identify lands that significantly constrained. He stated that additional recommendations would address site plan review where slopes are between 10 and 15 percent slope. Mr. Balzano advised that it is a recommendation to establish 15% slope or greater as steep slope for purposes of LUCM.

Ms. Letts noted she thought the language could be clarified because with 15% set as the standard, the references to 10% could cause confusion of that standard. Mr. Balzano noted that there are situations in which lesser slopes raise a resource management concern. He explained that between 10% and 15%, there are concerns associated with disturbance of soils if they are in close proximity to a surface water feature. He noted that issue is addressed during site plan or smart design standards being applied on a site plan level. He advised that for purposes of planning for the region, identifying constraints of lands that are appropriate or inappropriate for development – 15% is felt to be more reasonable and more defensible.

Mr. Salovaara asked if there would be a lesser standard than what is in the DEP standards. Mr. Balzano said that would not be recommended and noted that in the preservation area that it is recognized the 10% to 20% standards in the DEP rules would apply. Mr. Balzano advised that for purposes of identifying constraints on a regional scale, 15% is the recommended guideline. He stated that site design standards as well as regional planning standards. Ms. Letts asked if 10% to 15% will be used in the planning area, and Mr. Balzano responded that 10% to 15% would be used in the planning area on a site design level when the area is proximate to a surface water feature. Mr. Balzano said the DEP rules currently state between slopes of 10%-20% alterations are to be minimized to the slope. Greater than 20% any disturbance is avoided. The minimization allows for certain activities including linear developments such as roads or driveways across that slope. Mr. Balzano noted that the recommendation is that rule could apply in the planning area where it is near a water body, but that 15% be the planning standard.

Mr. Scott Whitenack asked whether that standard would apply only in buffers or anytime the Highlands Council deems it would be effective. Mr. Balzano said those discussions will take place at the next meeting when the Council examines open water and riparian. The recommendation would be within the open water or riparian protection area which will vary according to the quality of the receiving waterway.

Mr. Salovaara asked how this method is blind to the line. Mr. Balzano said that in a regional planning context as lands are identified that are constrained and not appropriate for development, that the Council would not apply a different standard between the preservation and planning area. He noted however, that on a site design level, the Council could recognize that within the preservation area there may be more stringent standards than that which apply in planning areas, depending upon the resource. A blind to the line planning concept uses one

standard to identify land constraints, and then on site design levels, a more stringent standard in terms of protection of slope would apply to the preservation area than to the planning area.

Mr. Salovaara said he has concerns over the fact that the site plan level is not blind to the line. Mr. Balzano said in terms of developing the LUCM it is blind to the line and establishes a 15% slope throughout the Highlands Region. He noted that extensive discussions took place in the past when the DEP rules and restrictions applied to 10% and 15% were analyzed. Mr. Balzano noted that the DEP standards only apply on a site plan level, but the Council's standard applies on a regional basis regardless if it is in the Preservation or Planning Area. He further advised that the consideration of consistency has been analyzed.

Mr. Schrier noted what Mr. Balzano has said is not dissimilar to what a municipal planning board does. Mr. Tim Dillingham asked why it was not desired to draw the LUCM to include lesser slopes and then establish standards. Mr. Dillingham remembered the fundamental arguments and discussions over the alteration of lesser slope and asked for clarification on the inclusion of 10% to 15% into the LUCM versus its exclusion, and what that means in terms of policies which will flow from that designation.

Mr. Balzano said the difficulty when including slopes in the LUCM is that it is not a feature which is easy to define since it occurs throughout the area and is very fragmented in many areas. He noted the need to continue to develop a much more robust method for evaluating slope. He advised that in the interest of advancing the plan to draft in October, a standard was chosen to ease incorporation into the map, because slope below 15% become problematic and diffuse.

Mr. Balzano noted that even above 15% it can still be problematic, but there is a provision which recognizes that in areas close to a waterway the concern becomes more significant. For purposes of practicality and to adequately fulfill the goals and requirements of the Act, the recommendation is 15% near water as the best way to address slope constraints on future development, and that during site plan -- specifics will be addressed as to sensitivity of slope at a lesser percentage of 10% to 15%.

Mr. Weingart thanked him for the clarification and said for example if there are two identical development sites, one is in Planning Area and one is in the Preservation Area, in terms of slope, was the recommendation that they be addressed differently. Mr. Balzano said that was both true and appropriate in that between 10% and 15%, the restriction should only apply and not prohibit all uses, and should restrict use that is otherwise incompatible or represents a threat to a water resource, which is the driver behind protection of slope where increased rates of erosion and sedimentation to surface water features are examined. Mr. Balzano noted where a 10% slope is distant and isolated from water, it is easy to stabilize, and where alteration or disturbance of soil does not pose a high degree of erosion or risk, slope should be treated between 10% and 15%. He also advised that the DEP rules apply the same standards for slopes between 10% and 20% and allow for road cuts not only for 10% slopes that are distant from water, but also on 10% slopes that are proximate to a waterway.

Mr. Weingart noted that in general the approach is blind to the line, but the Act treats the Preservation Area and Planning Area with different standards, the policy recommendations in some cases will differ. Mr. Balzano said that in some cases there will be harmonization provisions for post-plan revisions to standards to achieve regional consistency.

Ms. Pasquarelli noted with regard to what Mr. Schrier mentioned as to zoning and specific ordinances, what is being discussed impacts how the LUCM relates to those considerations.

Mr. Balzano said the RMP has two major purposes and functions, one being the LUCM, which identifies according to the requirements of the Act where resources are and what constitutes a significant resource, also

what the effect of those resources are on development potential, and what protection measures are necessary to ensure that resource values can be sustained over time.

Mr. Balzano said it is necessary to define and divide the Highlands region into zones based upon their degree of constraint, sensitivity and regional significance. He noted that as to steep slopes, identification of zones with the greatest limitation on future development, as including but not limited to slopes above a certain level. The staff recommendation is that level be set at 15% which indicates a high risk of destabilization of surface water quality.

Mr. Balzano said the second function of the RMP is to establish the framework and how standards will be applied at the municipal level as towns review and approve site plans. Local planning officials have one set of standards which are permissible and conforming uses to apply to a zone, and then another set of standards typically referred to as bulk standards, which apply to use of a site conforming to designated zoning.

The LUCM will determine and define zones and uses in terms of whether development is appropriate or not be it commercial or residential. The RMP standards and smart growth resource protection standards would apply at a site specific standard. Mr. Balzano noted that slopes are complicated because there needs to be a standard to inform the LUCM identifying where significant constraints are, and how to define the zone to capture it. Secondly considered is how to treat that resource where it occurs.

Ms. Letts asked how the slopes were being identified for the purposes of the LUCM. Mr. Balzano replied that there is a three-dimensional model of the Highlands Region. He said that the Council authorized that next steps be taken to refine the data through digital elevation mapping called Lidar, to do an over flight of the Highlands Region to generate graphic contour topographic maps at two foot contour intervals which are necessary for site design work. Mr. Balzano said the staff does know at this time where the 15% slopes are, at 5% increments. Mr. Borden noted the Council faces the challenge and is charged with reconciling the DEP standards into its resource assessment of the Highlands Region. He noted the reconciliation process results in two different approaches, one as relates to the definition of zones within the LUCM and one as it relates to the site plan standards.

Ms. Carluccio asked about the fact that Mr. Balzano noted information as to 10% is scattered or unclear, and asked if in the future it will be possible to harmonize the two. Mr. Balzano stated that 10%-15% slope occurs just about everywhere in the region and that a model is being completed to capture that issue, but it will not be done by the time the draft plan is released. He noted that will be covered under item four in the policy paper.

Mr. Dillingham said it could be dealt with by creating a two track construct, is the Council creating something that is comparable to the DEP standard. He noted his concern about the language of the Act as to setting standards for slopes and that the Council does not drop out the 10% to 15% slopes. Mr. Balzano said that they would not be disregarded on the site plan level, but that they were not being used to inform the LUCM.

Mr. Salovaara suggested that the Council should state in the document whether it is blind to the line or not, because if it is not going to be, it needs to say so and why. Mr. Balzano pointed to item number two of the document which recognizes that for purposes of identifying the regional protection zone as the most environmentally sensitive and include those slope constrained lands proximate to waterways. These are the planning standard for defining constrained lands and defining zones in the LUCM. Ms. Letts suggested that this be written in the document rationale to be clearer.

Mr. Balzano pointed next to item number three, which addressed the standards to apply regardless of zone in the LUCM, how to protect steep slopes and not compromise the resources. This area deals with areas higher than 15%.

Mr. Dillingham asked what the difference was between riparian and close proximity. Mr. Balzano replied that riparian addresses site specific standards. Mr. Schrier noted the need for clarification for municipalities. Mr. Balzano said that will be achieved during plan conformance and will be subject to Council approval. Ms. Pasquarelli and Mr. Schrier said the Council is making policy decisions at this point, and Ms. Pasquarelli noted that staff has thought a lot about it, and at this point, this is what we can determine. Mr. Balzano noted that less than 15% and above has been discussed at length by staff, and would need to apply the specificity during pre-conformance to provide additional details.

Mr. Weingart said perhaps a municipality with all 12% slope will see this standard and decide it doesn't apply to it. Mr. Balzano said that number one of the document advises that not all soils erode at the same level. He said there are slopes that are forested which are much more stable against erosion than one that is not. DEP has used land capability mass in their standards. The Council is also examining lands and the ability to sustain erosion. The depth of the soil on top of bedrock is important and naturally deep soils are better. Staff has established a four-tier system for evaluating slopes as to percentage of the slope, and apply framework. Mr. Salovaara asked if changes were prohibited if slope is above 20%, and Mr. Balzano replied that land cannot be cleared, but that maintenance of uses would be established for uses already in place on lands that are overdeveloped.

Mr. Salovaara would like to be sure and suggested writing the situations down and to be very specific. He asked if the standards to inform the RMP are adequate for the draft. Mr. Dillingham thought it should be recommended to see clearly the standards imbedded in the Act for slopes above 15%, which is justified by the work staff has done, and then note that on slopes above 15% uses shall only be maintained. He noted that in lower slopes it becomes more difficult but thought the Council should be clearer to articulate for the municipality how to deal with existing uses that are non-consistent in specifics.

Ms. Calabrese asked as to the lower slopes how much input municipalities will have. Mr. Balzano said a great deal of input. Mr. Schrier said the Council wants specifics and Mr. Balzano said the staff is working to provide additional specifics. Mr. Schrier said the document does not deal with GPS on the ground, and is broader policy that will be more specifically addressed later, noting though that towns want to know where they are. Mr. Balzano assured that they would. Mr. Salovaara thought the format was not quite right and suggested beginning with requirements instead of recommendation. He noted there were 5 paragraphs about generalities, but only a couple on requirements. He hoped that the requirements in the draft would provide a number. Mr. Borden noted that the master plan was not a master ordinance. Ms. Chris Ross noted that the policy is not general when someone is 100 feet away from a stream. Ms. Letts asked for an appendix, at which point Mr. Weingart asked Mr. Balzano to go through all the policies and then have members discuss.

Mr. Balzano pointed to number four where there were 4 steep slope thresholds for Smart Design Standards: Severe Slope Constraints, Moderately Severe Slope Constraints, Moderate Slope Constraints and Low Slope Constraints.

Next Mr. Balzano addressed number five, where Pre-Conformance Strategies were recommended, which includes the development of technical guidelines and procedures for development of steep slope protection standards for inclusion in municipal zoning and land use ordinances.

Mr. Balzano next pointed to number six, the Conformance Strategies recommended in furtherance of the goals and requirements of the Act. These would require the inclusion of steep slope protection standards for conformance with the RMP.

Next Mr. Balzano addressed item number seven, which are the 5-year Resource Protection and Planning Goals. This included the continued identification of steep slopes within the Highlands region using refined topographic mapping.

Item number eight addressed Coordination and Consistency measures recommended to promote active participation with state and federal agencies including the development of a coordinated regulatory review program with the DEP permitting process to achieve consistency of permit actions, open space acquisition priorities, surface water quality standards and restoration activities consistent with the protection goals of the RMP.

Item number nine addressed the Local Participation Considerations, which are education efforts to promote understanding and support for the RMP resource protection goals at the local level.

Ms. Carluccio suggested since a certain format needs to be followed, she thought it might help to clarify later in the document when discussing standards how they apply to all the areas – for example a schematic or a picture. Mr. Balzano said a cross section or side view of a stream could be viewed which goes up in varying degrees, whether it be between 15 and 20%, which would show if you are within 500 feet you could color code the changes in elevations. He noted it would be beneficial if there was the luxury of time to show the Council.

Mr. Dillingham noted as to the value classifications listed in number 4, whether break point was generally 15% and noted it would be interesting to understand how these clash with the ones in the DEP regulations. Ms. Pasquarelli noted the Council is doing two different things. Mr. Dillingham agreed, but noted the Council has a challenge of avoiding creation of holes where activities don't get regulated that ought to. He thought the language and the tools are the same but there is a balance point between the plan and the rule because there are existing steep slope ordinances that are good. He noted he would like the DOT and other state agencies added into the language.

Mr. Schrier said under number eight and the second bullet point as pertains to NRCS coordination, he asked who was in control if coordination was not achieved, and who would make a final decision. Mr. Balzano said that individual state agencies have regulatory power over some areas. Mr. Borden noted there will be exempt activities exempt from the Council's jurisdiction and noted that it can incorporate standards that sister agencies may utilize. Ms. Pasquarelli said it was not the agency that has to comply and Mr. Borden said that was correct. Mr. Di Pirro stated the Council will take action to work with agencies to harmonize certain issues because if they have some jurisdiction and the Council has some jurisdiction, then we have to work together. Mr. Schrier said he believes the Council is perceived by the municipalities as regulating and having jurisdiction. Mr. Di Pirro answered that the RMP standards can be utilized where the Council has jurisdiction.

Ms. Carluccio had questions about agriculture and the need to coordinate with NRCS and the USDA in this regard. Mr. Borden noted that farming activities are not subject to DEP standards in the Preservation Area. Ms. Carluccio said she would contact staff to suggest some wording changes to avoid vagueness. She thought as Mr. Dillingham mentioned at one point to not use the word avoid and choose clearer language. Mr. Schrier said using the word "avoid" could be because the Council is not an enforcement agency, and suggested using the words "not allow disturbance" instead of "avoid disturbance." Ms. Carluccio said the Council does need to make clear distinctions and agreed that the word-smithing is very important.

Mr. Salovaara said he would like clarity as to the municipal pre-conformance phase and asked if the Council would put out the draft RMP and then go out to towns and take recommendations which could in turn soften the requirements. He agreed with what Mr. Dillingham said that the Council needs more specificity as to what it requires in the RMP. Ms. Pasquarelli also agreed and said that would constitute cross-acceptance, and the Council is not looking to conduct cross-acceptance. Ms. Carluccio said the Council should define the terms as

to what the Council will and will not be allowing. Mr. Balzano said that pre-conformance is the time to analyze details because towns need the Council to tell them what to do. Mr. Salovaara said the RMP doesn't state clearly enough what Mr. Balzano is explaining.

Ms. Letts thought it would be impossible to conduct all measures necessary for informing municipalities by October, and thought the Council should attempt to put out the best plan possible with what it has. Ms. Calabrese also noted it was unrealistic that the Council could expect to look at every single case in such a huge geographic area in time.

Mr. Salovaara asked how the Council will decide what to allow, and whether a town was in conformance. Mr. Schrier said that all 88 of the municipalities need reflection and examination. Mr. Weingart noted that the Council is charged to make the plan as specific as possible. He noted some cases will be clearer than others, and that the policy overlays are broad at this point. He added that at some point the Council will fit them all together.

Ms. Carluccio suggested that the Council create guidance documents as it moves forward, noting the need to decide policy issues now. When the Council learns that an issue will come back to it from staff, when could the Council expect to resolve those issues, and asked if it would have to wait until a vote on the draft RMP. Ms. Carluccio thought there was a need to address these issues. Ms. Pasquarelli said she agreed with everything Ms. Carluccio said because the Council could end up coming in on October 26th with 47 objections to the document.

Ms. Pasquarelli added that pre-conformance is not about whether the Council will allow a municipality to conform, rather it will set the standards and then there is no flexibility in her mind. Mr. Weingart noted he would like this paper reworked and have staff bring it back to the Council.

Ms. Letts said she would like the run-in addressed as did Mr. Salovaara, as to the issue of the wording "avoid or prohibit" and then what "minimize" meant. She asked whether there could be a ratio the Council would apply and have decisions based on that. Mr. Weingart reminded the members that if they have suggestions on any of the policy papers, to be sure to send them to the staff.

Mr. Dillingham suggested rather than have staff re-write the whole document, maybe a one page document that says "these are the suggestions made by members" with bullet points, and no more than that. Mr. Di Pirro stated he wants to clear as many issues as possible now, and he thanked Mr. Dillingham for his suggestion, so that staff doesn't need to rework the whole document because there are other items staff is already working to cue up for the next work session. Ms. Pasquarelli noted the need for reorganizing the document to avoid having problems.

Mr. Di Pirro said staff will provide contexts for clarification purposes. Mr. Weingart agreed it would be helpful to give guidance to staff, but asked that the Council move on to the next topic. Mr. Di Pirro suggested that the next policy addressed be recharge rather than forest, since Mr. Kurt Alstede was expected to arrive but was not yet present. He advised Ms. Lisa Voyce would present the next topic.

Prime Ground Water Recharge Area Protection Requirements:

Ms. Voyce noted the most important factor to consider was that groundwater recharge directly impacts the water supply and ecological resources of the Highlands Region. Mr. Di Pirro suggested Ms. Voyce follow Mr. Salovaara's suggestion to first identify the resource such as HUC14s and then the site specific design standards in numbers three through seven. Ms. Voyce provided an overview that staff utilized the USGS data to rank resources in a relative basis that were the most productive in a groundwater recharge area to protect the water quality and quantity.

Ms. Voyce noted that item number one contained the recommendations to be included in the LUCM. She noted it was necessary to determine where the most water enters, because that is where the most pollution enters as well. The staff recommends in item number two that Prime Ground Water Recharge Areas include lands within a HUC 14 subwatershed which provide 40% ground water recharge relative to other land areas during drought conditions.

Ms. Carluccio asked where the 40% figure came from. Ms. Voyce stated that staff examined other regional planning efforts including the study in the Raritan Basin. She explained the analysis that was conducted on five different levels and explained the process and also the reason why this approach was taken. Mr. Weingart noted he believed this was the type of language Ms. Carluccio would like included in the rationale section, and Ms. Carluccio agreed.

As to policy number three, bullet one Ms. Voyce stated was the most protective zone, designated as the Regional Protection Zone, including prime ground water recharge areas for incorporation in the LUCM. Ms. Carluccio asked whether the language maximum extent possible was chosen as a result of the language of the Act. Mr. Borden noted that it was chosen for the purpose of building the LUCM, not how to treat applicants. Mr. Weingart asked how the phrase would change in the RMP. Mr. Borden said there will be some adaptations when staff writes the RMP. Mr. Di Pirro noted this would be a placeholder for the Council in October so it can view the integration and added that phrase will not be in the plan. Mr. Dillingham stated he did not want that language used. Mr. Alstede arrived and joined the meeting at this time.

Mr. Salovaara noted the resource within a HUC 14 zone is already preserved by other regulation and added that everyone must understand the recommendation being considered for approval. He said he was troubled that it appears to mean that such a significant part of what the Council does is to look at recharge areas instead of whether they are forested or not forested. Mr. Salovaara said he was not comfortable saying this additive process of scoring areas was appropriate for recharge areas. Mr. Di Pirro noted that staff would provide the Council clarification. Mr. Dillingham noted that if it is important enough to be dealt with on its own, then there needs to be a tool to inform local ordinances on how to treat the resource.

Ms. Voyce noted this was a critical issue and that staff is aware it is a very important document. Ms. Letts asked how staff decided it should not stand on its own and not preclude development. Ms. Voyce said recharge is usually better on flat land. Ms. Carluccio asked whether this was the same fundamental problem, where primary resources are to be left intact and suggested it would be better to say the Council recognizes a recharge area as being critical and that these are the things that you cannot do. Mr. Weingart noted that the second bullet point dealt with that.

Mr. Weingart asked for an explanation of the difference between discourage or prohibit. Mr. Dillingham thought the Council would have to state “no loss of quality or quantity” and develop a plan that would lay out how that could occur because the Council wants towns to protect recharge areas. He added that the Council needs to know how they are going to achieve that. Ms. Voyce said that is addressed later in the section which recognizes best management and the methods are listed. She noted there are injection wells and remedies which have been conducted that have to be done to maintain the waterways. She added they are also addressed in the coordination and consistency section.

Mr. Salovaara said he would like the three verbs changed because “restore” is part of the Council’s charge. Ms. Carluccio asked how bullets two and three were different and thought they could be combined into one to describe areas that are not supposed to be disturbed, and then what happens if the area is disturbed. Mr. Weingart noted that what could be confusing the point is that the same phrase is in bold in both bullets.

Ms. Pasquarelli agreed that word-smithing would be very important. Ms. Letts asked the difference between number three bullet two, and number six bullet one, and Mr. Di Pirro replied that number six is site specific. Ms. Letts noted that one bullet says encourage and one says restrict, and thought it could be difficult to be consistent as the Council makes amendments to the plan. She asked whether there could be a set of standards for each zone because this is potentially very confusing for municipalities.

Ms. Carluccio noted that item number three designates the areas that are most pristine which should not be disturbed. However, under item number four it appears there is some latitude, and she wanted it clarified as to the difference between the protection and conservation zones. She thought they should be listed very specifically. Mr. Dillingham asked since there is a policy issue to protect the recharge areas, he would like clear criteria to guide the Council in deciding where it is appropriate, and under each - what the criteria are to determine if it is appropriate. Mr. Dillingham stated it should be dealt with as to treatment of brownfields, and coverage, and would like those types of policy decisions included. He asked for clarification on the threshold questions, because the Council has to meet 40%. Mr. Dillingham said the Council is not addressing the question as to when it would be appropriate to establish a process for approvals of those areas.

Mr. Salovaara thought the process should be articulated in the documents and not just the standards. The Council is going to amend the RMP and towns have to adhere to the RMP. Therefore, Mr. Salovaara said it was not clear to him that courts would agree with and until it is amended, not adhering to the RMP would be allowable. Mr. Salovaara said if the Council is silent and says it will do so later on, it will not work. Mr. Di Pirro said that it does belong in the plan and is adoptable and amendable in 18 months. Ms. Voyce noted that even in redevelopment zones there is the requirement for no net loss and no degradation.

Ms. Carluccio said if an application is received and then comes back with a site plan that brings back more water than was originally present, it enhances the quality. She thought in those instances there should be a higher standard to provide a means for improving levels of degradation which are already present.

Ms. Voyce pointed to item number seven, which addressed Smart Design Standards recommended for inclusion in the RMP to encourage appropriate conservation based design throughout the region. Ms. Carluccio said she thought bullet number one (a) was unnecessary, and noted that it was contradictory to one (b) in the instance of an LID.

Mr. Schrier wanted clarification on what LID stood for. Mr. Di Pirro noted that was the term for Low Impact Development. Mr. Balzano offered an explanation for clarification, and Mr. Weingart noted that what is written was not as clear as the explanation just given. Mr. Di Pirro noted it was also a list of conditions. Mr. Dillingham thought that was not what Ms. Voyce had said and thought she stated these would be standards that apply in Specially Planned Areas. Ms. Voyce clarified that they would apply to any area.

Mr. Dillingham said there are no measurable changes in the Category One language which he finds to be a problem for municipal planning boards. Ms. Letts said that many towns do not have engineers, and that an applicant would have to retain one and then it would be required that the municipality hire one for review. Mr. Dillingham said essentially the Council is building in a burden and thought the Council should have non-debatable standards.

Ms. Voyce pointed to item number eight, which addressed Regional Growth Standards which staff recommends for inclusion in the RMP for towns that have regional wetland management programs as mandatory requirements for any site plan application subject to review and approval by the Council.

Mr. Salovaara asked if what the Council was saying had to be part of a town's master plan and Mr. Balzano replied that was correct. Mr. Schrier asked if this pertained only to commercial development, and Mr. Balzano

replied it applied to any development which compromises recharge areas. Mr. Salovaara also asked whether this would supersede what is already in place. Mr. Balzano replied yes and no. Ms. Letts noted concern over the burden on towns which will keep them from buying into the plan. Mr. Salovaara agreed that conformance period has a 6 month trial period which should be kept in mind, and that the Council needs to advise towns in 60 days. He said it is important to advise them what the requirements are.

Ms. Carluccio suggested that both bullets are not standards but more like methods and thought it was not exactly appropriate and that the restoration language should be explained. She noted a bullet was also missing on LIDs. Mr. Weingart suggested going back to this issue to determine whether it is correct and implementable.

Mr. Balzano noted the Regional Growth Standards that are recommended are to protect the region. Mr. Dillingham was concerned about the language and Mr. Balzano said staff will work on that language further.

Mr. Balzano pointed to item number nine, outlining Pre-Conformance Standards. Mr. Dillingham asked whether the list would also include allowable uses as to LIDs and BMPs because the Council should not allow commercial development in those areas. Mr. Balzano stated the language prohibits any use that would increase beyond existing impervious cover.

Mr. Balzano next noted item number ten addressing Conformance Strategies. He noted these would require inclusion of Prime Ground Water Recharge Areas in municipal and/or county conformance documents, master plans, zoning and land use ordinances as the means to address groundwater recharge. Ms. Letts asked if the Council will provide the ordinances, and Mr. Weingart noted that was addressed in number nine. Mr. Schrier thought the two item numbers could be switched.

Mr. Balzano noted that item number eleven addressed the 5-year Resource Protection and Planning Goals which are recommended to further the goals and requirements of the Act to ensure continued refinement and development of the RMP including the coordination of programs, funding and activities among public and private entities to protect water recharge restoration activities. It would also provide for the development of municipal Ground Water Recharge Area LID and other methods of protecting recharge quantity and quality.

Item number twelve addressed Coordination and Consistency Considerations. The recommendation is to coordinate with other state and federal agencies such as USGS, Army Corps and EPA, to refine and further develop that list.

Item number thirteen addressed Local Participation Considerations which provide for development of education and technical training for local officials to promote understanding and support for the RMP resource protection goals at the local level.

LUNCH BREAK:

At 1:30 p.m. Chairman Weingart called for a lunch break and asked that the Council reconvene at 2:00 p.m.

At 2:05 p.m., Chairman Weingart called the meeting back to order. He noted that the next item for consideration would be presented by Mr. Balzano.

Forest Integrity Protection Requirements:

Mr. Balzano noted that item number one addressed Forest Integrity Protection Requirements recommended for important contiguous forest resources to be maintained and included in the LUCM. Item number two delineated the qualities of an area of forest. These areas provide enormous ecological benefits and have the

following indicators: Total Forest Area, Core Area, Forest Patch Size, Proportion of Total Forest and Distance to Nearest Forest Patch.

Mr. Balzano noted that Forest Patch Size relates to how large a forest is, but over a unit area, how much of the landscape is in forest. He noted there is a list of indicators of what a forest has as necessary to protect quality. For purposes of defining a resource forest area, 500 acres or more of contiguous forest area is considered. Also areas with Core Areas, and species that require forest interior area greater than 250 acres or cover greater than 45%. He noted the effects of fragmentation cause more loss of ecological integrity and there are three criteria to outline.

Ms. Letts noted her misunderstanding as to the 45% designation. Mr. Balzano noted that 45% examines how much cover there is, such as the mean forest cover changes, and is a measure to identify the area in a region that is predominantly forest. Ms. Letts asked how this would be configured, and Mr. Balzano replied it is calculated by 10 feet and repeats to create a data base that looks at the distribution of forest over an area.

Item number three, examines forest value as to what the quality of the forest is, while taking into consideration the HUC14 watershed level to maintain the public benefit. Mr. Alstede asked about section 13:20-28 which is the exemptions portion of the Act and said any rules or regulations adopted by the DEP or any regulations in place by local government need to specifically conform with the requirements of the Act. Mr. Borden noted this was contained in section 30 of the Act and it may be the state forester looking at the RMP that needs to have information to determine if it would be exempt from any requirements. Mr. Alstede thought there should be incentives to promote participation and Mr. Borden agreed. Mr. Alstede further said this should be used for publicly owned lands as well. Mr. Balzano said the hope and desire is to inform both public and private lands, and the uses identifiable as to forests necessary to protect what land uses and standards relating to site plan, and priorities to benefit as many as possible.

Mr. Alstede asked whether an overlay of those areas was available and Mr. Balzano said there was. Mr. Alstede asked to view the overlay to see how forests fit in with all the other overlays. Mr. Balzano displayed in a demonstration a layer with different shades of green, which illustrated forests with the 45% threshold illustrated in dark green. The different levels of forest cover have different values as to protecting the water resources.

Mr. Balzano advised that staff is working on the integration of the different layers. The benefits of each zone are outlined in the essential criteria. He noted that as development continues and staff receives input from the members now, that input will flow into what is developed. Mr. Balzano advised that the data being shown was completed by the Rutgers Center for Spatial Analysis. He noted that the forest element is a big driver in the RMP. It is habitat for both terrestrial and aquatic resources with tremendous air quality benefits as well. Healthy forests are very important to air quality both locally and globally.

Mr. Alstede mentioned that deer overpopulation is also damaging forests. Mr. Balzano noted there was a recommendation in the plan for that issue as well. He advised staff has gone through a very thorough series of indicators. Pertaining to the illustration being shown, the dark blue areas are high quality, and yellow are impaired. He noted the layers identify high integrity down the line to low integrity forest areas which possess less value. Mr. Alstede said he was interested in seeing all the layers together.

Mr. Balzano said the policy recommendations as to the different zones were for the Land Use Capability Map with the recommendation to include all the dark blue areas. The recommendation was to discourage, prohibit or restrict clearing of forests within zones that have moderate cover. He noted there will be some allowable flexibility so that limited development can occur without impairing. Ms. Carluccio noted she preferred the word shall instead of should in the third bullet. Mr. Balzano said there would be public health and safety

considerations in the interest of maintaining forest integrity. Ms. Carluccio thought that issue was not stated clearly and said it should not appear in this section if it is covered somewhere else. All of these things are subject to protection in the Act. Mr. Borden noted the waiver covers that. Mr. Schrier agreed that the wording is important.

Mr. Salovaara said the Council ought to be more restrictive because under the Right to Farm Act he believed trees could be removed. Ms. Letts wanted clarification as to what clearing means, such as did it refer to cutting one tree down, or cutting down a hundred trees. Mr. Alstede said he doesn't see where the Council has a tremendous amount of authority there and has to get people to join involuntarily to be effective. He said that the Legislature recognized forestry as a separate issue and noted there are a lot of ways that unscrupulous people can achieve bad practices. He wondered how the Council would achieve stewardship. Ms. Carluccio stated this would apply if the land use changed, and thought the Council hands were tied until there is a change in land use. She thought the words no clearing could be changed to say no cutting and said the terms need to be defined clearly. Mr. Alstede offered the scenario where someone purchases 100 acres, they could get a forester, do farmland assessment, and possibly clear the trees.

Mr. Balzano stated most forest in the region has to be managed. He noted that page three continues with the incentives for forest acquisition, and outlined providing benefits to landowners through TDR bonuses or acquisitions. Ms. Carluccio acknowledged that, but noted if there are a lot of ways to protect land, and wondered if the Council should be using TDR. Mr. Dillingham said he thought the opposite in that it sounds like the fact that this Act has been enacted, the Council may not have a lot of control over forests which are integral to the water. He suggested the need for a more detailed assessment as to how protective the provisions are and the need to take a hard look at how to handle vulnerable forests. Mr. Balzano said staff will continue to look to benefit the landowner for being a steward. Mr. Salovaara said the Council might consider also looking to the Legislature for assistance.

Mr. Balzano said that item number five of the policy document addresses the Regional Conservation Zone, and inclusion of all Moderate Integrity Forest areas to the maximum extent possible. This section also requires forest protection and restoration plans to mitigate forest losses through Best Management Practices and Low Impact Development.

Ms. Letts noted there should be some attempt to provide for restoration. Ms. Carluccio thought that may come at bullet three under number five. Mr. Salovaara restated his concern about falling under the ambit of the Right to Farm Act and to compare the amount of trees that have been taken down as to how many are to be allowed to be taken down. Mr. Alstede noted that the Right to Farm Act does not allow cavalier practices. He said there are very strict guidelines and regulations and would like the focus to be on benefiting land owners for practicing good standards.

Ms. Carluccio asked for a definition for clearing. Mr. Balzano stated that within a high resource area the Council would not want to encourage a use that will result in degradation of the resource. He also said this will help to generate restoration. Ms. Carluccio requested defining a list of things that cannot be done such as clearing for ski slopes. Mr. Balzano advised staff has been looking to define the resources and activities.

Mr. Balzano pointed to item seven, subparagraph b) which notes permissible uses. Mr. Salovaara thought the Council should start by specifying what it means by restoration. Mr. Balzano agreed. Item seven subparagraph c) encourages redevelopment of previously developed areas, and Ms. Carluccio asked that the phrase prioritizing uses to encourage redevelopment be added. Mr. Balzano noted the next bullet item established minimum requirements for Low Impact Developments.

Item eight recommends Smart Design Standards for the RMP in furtherance of the goals and requirements of the Highlands Act to encourage appropriate conservation based on design throughout the region.

Mr. Salovaara asked if what the Council is expecting is to be the regulatory authority for the submission of a standard. Mr. Balzano noted there was a provision for the applicant to come to the Council and inquire whether their plan is consistent with the RMP, and they would then go to their municipality with a letter in hand from the Highlands Council.

Mr. Salovaara said he did not want the Council to be backwards and said it ought to identify forests. Mr. Balzano noted that in all instances an applicant will have an appeal process. This recommendation creates checks and balances. Mr. Salovaara thought it goes against the requirements of the Act in that the Council has to identify the forests.

Ms. Letts stated the Council has to realize there are things that will need to be updated and are subject to changes.

Ms. Pasquarelli asked what the process was for amending the RMP and if it would be done through a formal public comment process. Mr. Di Pirro replied that was correct. Mr. Borden noted that the plan would also be locally updated at the municipal level. He noted the suggestion by Mr. Salovaara that the Council could put on the website all the upland forests that have been identified. Ms. Letts asked that as the Council continues to gather data and release the plan all while learning about the area, it would not be able to update for six years. Mr. Borden said that the Council was not required to wait six years, and could act on new information. Ms. Carluccio noted the standards would be in place and the Council would add areas.

Mr. Balzano noted item number nine, which addressed Pre-Conformance Strategies. The recommendation is to require an approval to remove more than 3 trees on a property. Mr. Balzano noted there were a lot of ordinances out there, and that the Council just needs to customize them to meet its standards. Mr. Salovaara said he would like a portion of this work completed over the next two weeks. Ms. Letts didn't envision towns wanting to go through conformance in 60 days.

Next, Mr. Balzano noted that item number ten addressed the requirements for towns on Conformance Strategies, which state that they have to provide for protection of forest and will be included in the RMP.

Mr. Weingart asked to refer back to the data and how specific it was. Mr. Balzano stated this type of mapping was done on a 2,000 foot magnitude. He noted anything less than an acre causes mapping to become too confused and advised that at a site plan level, a higher accuracy result is achieved. Mr. Balzano stated this was a normal practice for municipalities.

Mr. Salovaara thought the definition of forest needed work. Mr. Balzano noted that the definition of forest was included in a resolution, and Mr. Borden noted it was approved by the Council by Resolution in September of 2005.

Mr. Balzano said that item number eleven addressed the 5-year Resource Protection and Planning Goals. Mr. Balzano explained that these were the recommendations to develop a coordinated agroforestry program throughout the Highlands region, with a proposed amendment to the Farmland Assessment Act to include sustainable management provisions and yearly income adjustments for societal benefits provided by small, forest woodland owners.

Mr. Balzano noted that item number twelve addressed the Coordination and Consistency Considerations that are recommended to promote active participation in the implementation of the RMP among state and federal agencies.

Mr. Alstede noted with regard to item number eleven, that it is almost impossible to amend the Farmland Assessment Act.

Mr. Balzano said that under item number twelve, coordination with the NJ Forest Service and US Forest Service standards would be developed for forestry practices consistent with the protection goals of the RMP as a required element of Forest Management Plans, as well as coordination with NJDEP as to deer population controls within managed woodlands. Ms. Letts asked who would have policing power, and Mr. Balzano noted the Council can go to court and ask for an injunction. Ms. Letts suggested the imposition of fines for violations.

Mr. Balzano noted that item number thirteen addressed the Local Participation Considerations recommended to promote understanding and support for the RMP resource protection goals at the local level and provides for the development of educational programs for municipal officials on methods to develop a Forest Protection and Restoration Plan, as well as programs for land owners and officials for forest management and stewardship methods. Mr. Weingart asked that the Council move on to the next policy item.

Agricultural Protection and Sustainability:

Ms. Kim Kaiser noted that are approximately 120,000 acres designated for farm use in the Highlands of which only 27,000 acres have been preserved. She noted that the definition for Sustainable Agriculture could be found on page eleven, and that the definition was provided by the 1990 United States Congress Farm Bill. She noted however, that that definition does not contain a formula or equation for sustainable farm use.

Mr. Salovaara asked how the 120,000 acre number was arrived at. Ms. Kaiser noted it was obtained through the land use land cover 2002 assessment used by DEP when it conducted aerial evaluations of lands. Mr. Salovaara asked if farmland assessment data was also considered. Ms. Kaiser noted that MOD4 data was considered but wasn't very helpful for this analysis because it covered all uses and provided no distinction between forest assessment and farmland assessment.

Mr. Alstede asked what the total land base designated for farmland use only was, and Ms. Kaiser noted that it was more than 120,000 acres, and that figure could be found in the agricultural technical memoranda on the website.

Mr. Salovaara asked for example if there were 44 to 47 municipalities, and each has a tax assessor who asks the question of how much is woodland management versus how much is farmland, whether the answer could be provided. Ms. Kaiser said that issue was examined, but it was found that records on woodlands assessments alone are not readily available. One goal in the future is to obtain an accurate record and database of those lands. Mr. Salovaara asked then if woodland assessments were excluded from the designation, and Ms. Kaiser replied that was correct.

Ms. Kaiser noted the first staff policy recommendation would be for the protection of Agricultural Resource Areas in the RMP in order to protect and maintain important agricultural resources in the Highlands Region for incorporation into the LUCM.

Ms. Kaiser advised the second recommendation was to establish the Agricultural Resource Areas in the LUCM which include contiguous areas of 500 acres or more, and parcels containing prime farmland soils, also those that are designated as existing agricultural lands.

Mr. Salovaara noted concern about creating takings from a legal point of view. He suggested that the Council spend some time thinking about this question. Mr. Salovaara would like that perspective from Mr. Borden when he comes back to the meeting. Mr. Salovaara thought it was being suggested that the Council is going to say to farmers that they must continue farming. Ms. Kaiser said that she was simply describing prime agricultural resource lands. Mr. Weingart said that he understood the consideration would be where the Council would consider exceptions and have flexibility in terms of avoiding takings.

Mr. Alstede said that this mirrors what was discussed in forestry, as to what activities are specifically listed as exempt in the Act. He noted there are benefits recognized from having the activity occur compatible with the goals, and that use of incentives and recommendations would get people involved. Mr. Salovaara said that he was viewing a reference to land development and land alteration within the area when he mentioned the question as to takings.

Ms. Kaiser noted that the DEP rules are not applicable to most agricultural and horticultural uses for development. She noted that there is a very large group of activities that are not under the DEP rules, however they are not deemed exempt. Mr. Weingart asked whether they could be subject to the plan. Ms. Kaiser replied that was correct in that the Council can ask municipalities to include provisions in their ordinances. Mr. Salovaara said that he thought it involves the Right to Farm directly which states municipalities cannot impinge upon the right to farm at a state level. Ms. Kaiser replied that the Act also takes into account that the Council must promote the Right to Farm Act as part of the RMP. Mr. Balzano noted the intent of the standards was to encourage farming and to discourage alternate uses that would impair the farming uses. Ms. Kaiser noted the Council's primary goal was to limit the change from farmland to non-agricultural uses.

Ms. Letts asked if it was defined within Agricultural Resource Areas was 500 contiguous acres, but was it correct that lower gradations were noted to define a farm. Mr. Balzano said this was not intended to define a farm, but rather identify those farms that are part of important agricultural areas of the Highlands. Ms. Letts thought that the number was high. She noted there is a 5 acre farm in Parsippany and is considered a really valuable farm. Ms. Kaiser said this defines a resource area and not what a farm is. She noted that contiguousness is a major factor. Ms. Letts asked what will be included in the LUCM. Mr. Balzano said the LUCM is informed by the agricultural resource area, that portion of the Highlands that includes the farms that have the greatest resource significance, not all farms.

Ms. Kaiser said they are also agricultural land masses that are not separated by intervening non-agricultural development which is the area that is being designated. Mr. Dillingham asked if there was an overlay of the area. Mr. Balzano showed the Council a power point slide which showed all the agricultural farms. Mr. Alstede asked if the representation included woodland in between, and Mr. Balzano noted that was correct and there was a lot of overlap. Mr. Balzano noted that the portion of the Highlands region was defined as to include all those regionally significant farming areas as to size and prime soils. Mr. Salovaara asked if there were any farms over 500 acres that were not included because the soil wasn't prime. Mr. Balzano said that the selection process had a prime soils component and therefore lands without that component were not considered for the analysis. Ms. Kaiser noted there are over 300,000 acres of prime soils and unfortunately most of which are under development.

Mr. Salovaara asked where 500 acres came from, and Ms. Kaiser noted that it was from the 2002 U.S. Forest Service study. This was one factor used to determine conservation values for agriculture. She noted contiguousness is important in terms of preserving the farmland community and its productivity. Mr. Weingart suggested this would be language to be included in the rationale, as well as the definition of the Agricultural Resource Area.

Mr. Balzano noted that in the Midwest farmland was divided by one-mile square which is about 600 acres, since that was the amount that could be tilled and managed as an individual farm. Ms. Kaiser noted much of the explanation is contained on page eleven. Mr. Salovaara asked if 250 acres was not considered because it is not available, or was it considered and rejected. Mr. Balzano said the threshold for regional significance was set at 500 contiguous acres which was a good representative of the distribution.

Mr. Alstede said that you can have a small tract and be very successful and the Council should not exclude anyone under 500 contiguous acres. He noted the Council should consider having two tiers because much of the background for the 500 acre selection is based on what is occurring in the rest of the country which is much different than agriculture activity here. Mr. Alstede said for a grain operation or sizeable dairy operation, big contiguous tracts are very important. He also suggested that the more intensive fruit and vegetable production a very successful operation can be achieved on a much smaller tract. Mr. Alstede thought that having a lower standard could be considered because there are a lot of speckles outside the area that Mr. Balzano showed on the map which would be helpful.

Ms. Kaiser noted that the average farmland in the Highlands is only 55 acres, and statewide they are 81 acres. She said the land mass that forms all the farms is a factor the SADC uses when they are considering the proximity to other preserved farms. She noted it is a factor used in most preservation policies. Mr. Alstede noted this was one ranking criteria among many others. Mr. Weingart said it is desired to keep these lands in active farming use, as well as enhancing whatever resources such as SADC that are available to help support these farms.

Mr. Weingart also noted with regard to Mr. Alstede's comment that there are farms outside the 500 acre contiguous area that the Council may want to see supported. Ms. Kaiser noted that she did not believe any of the policies being recommended would be to their deficit. Mr. Balzano the policy would prioritize within the resource area.

Mr. Salovaara said that the resource assessment requires the Council to identify farmland and the Council should not ignore any 400 acre farm that happens to be by itself. Mr. Weingart asked that the Council move on to the next number. Mr. Balzano noted that the power point demonstration showed that the vast majority of existing agricultural uses are being captured.

Ms. Kaiser noted item number three addressed the standards recommended to be included into the Regional Conservation Zone of the LUCM. She noted that item number four addressed what Resource Protection Standards should be included in the land use protection area and establishes the resources protection standards. She read all the bullets listed under number four. Ms. Carluccio thought the most important provision under the standard was bullet number five and should be more forceful than the word encourage.

Ms. Kaiser noted that may be addressed later on page fourteen, under the paragraph on agroforestry. Mr. Alstede said that bullet one says prohibit land development or alteration, then under bullet ten it says encourage and noted that if the Council decides to state no other use than farming is allowed, it better be prepared. Mr. Balzano noted that Mr. Borden will need to follow up on this issue because as Mr. Salovaara mentioned, the language should not be considered as taking.

Mr. Dillingham said the Council needs to examine recent lawsuits regarding the regulation farmland and start determining what uses are allowed on it. He thought there will be a comparable argument on the lands in the map Mr. Balzano showed as to overlap. Mr. Salovaara said that he was concerned the Council is close to crossing the line and would like to know whether it was.

Ms. Kaiser noted that item number five addressed Smart Design Standards and that this section included the ordinances and standards.

Ms. Kaiser stated item number six addressed the Conformance Strategies which are recommended in furtherance of the goals and requirements of the Act to ensure successful implementation of the RMP during the conformance period, with the list of requirements for counties and municipalities with agricultural resources.

Ms. Kaiser noted that item number seven addressed the 5-year Resource Protection and Planning Goals being recommended to ensure continued refinement and development of the RMP including maintenance of an inventory of Active Highlands Region Farms.

Ms. Kaiser noted that item number eight addressed the Coordination and Consistency Considerations under three headings: 1) Department of Agriculture - State Agriculture Development Committee and Garden State Preservation Trust; 2) Federal Agency funding; and 3) Department of Agriculture.

Mr. Dillingham asked where the cross-over occurs with agricultural use and the resource management. Ms. Carluccio suggested the addition of a bullet point to coordinate with agencies to make sure their goals have a Best Management Practice in place which are consistent with the Council.

Mr. Dillingham said with regard to item number five, he requested that staff illustrate where cluster development in other parts of the country versus agricultural resources were on broad implications and provide justifications.

Mr. Weingart suggested that the Council stay on schedule with the 4:00 p.m. adjournment time, and said that the Council would continue with this document at its next meeting on September 28th, 2006 at 10:00 a.m.

ADJOURN:

Mr. Dillingham motioned to adjourn, Ms. Carluccio seconded, all were in favor, and the meeting ADJOURNED at 4:05 p.m.

Votes on the Approval of 9-21-06 Minutes (Yes, No, Abstain)

Councilmember Alstede	_____
Councilmember Calabrese	__Y__
Councilmember Carluccio	__Y__
Councilmember Dillingham	__Y__
Councilmember Kovach	__A__
Councilmember Letts	__Y__
Councilmember Pasquarelli	__Y__
Councilmember Peterson	__A__
Councilmember Salovaara	__Y__
Councilmember Schrier	__Y__
Councilmember Vetrano	_____
Councilmember Way	__A__
Councilmember Weingart	__Y__
Councilmember Whitenack	__Y__



John Weingart, Chairman