

MINUTES

NEW JERSEY HIGHLANDS COUNCIL  
MEETING OF NOVEMBER 20, 2006

JOHN WEINGART ) CHAIRMAN

ELIZABETH CALABRESE )  
TRACY CARLUCCIO ) COUNCIL MEMBERS  
TIM DILLINGHAM )  
JANICE KOVACH )  
MIMI LETTS )  
DEBBIE PASQUARELLI )  
ERIK PETERSON )  
MIKAEL SALOVAARA )  
JACK SCHRIER )  
GLEN VETRANO )  
TAHESHA WAY )  
SCOTT WHITENACK )

ABSENT:  
KURT ALSTED

**CALL TO ORDER:**

The Chairman of the Council, Mr. John Weingart, called the 40<sup>th</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 3:10 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 or circulation throughout the State.

Mr. Weingart advised that Mr. Kurt Alstede called in to say that he was in the process of returning to New Jersey from Vermont with a truck load of Christmas trees when his vehicle broke down, and that the necessary repairs would prevent him from making it to the meeting today.

Mr. Weingart then turned the members' attention to consideration of two sets of minutes.

## **MINUTES OF OCTOBER 12, 2006:**

Mr. Schrier motioned to approve, Ms. Pasquarelli seconded. Mr. Weingart asked if there were any comments from members or the public, and none were received. Ms. Janice Kovach and Mr. Glen Vetrano abstained, and the minutes of October 12, 2006 were APPROVED.

## **MINUTES OF NOVEMBER 9, 2006:**

Ms. Letts motioned to approve the second amended version of the November 9, 2006 minutes, Ms. Pasquarelli seconded, and asked that the following corrections be made: On page 5, paragraph 5, line 3, where Mr. Borden stated that “the COAH rules are under review and being revised,” Ms. Pasquarelli asked if that correctly memorialized what Mr. Borden had stated. Mr. Borden replied that it was correctly stated.

Also on page 5, paragraph 5, line four, Ms. Pasquarelli asked that the words “State Planning Commission does not have to agree with” be changed to “there is no consequence if the State Planning Commission fails to endorse the Highlands Regional Master Plan.” Ms. Pasquarelli also asked that on page 6, paragraph 9, line 6, the word “informed” be changed to “endorsement.” Finally, Ms. Pasquarelli sought one final correction; however, the sentence she referred to had been removed and clarified within the text of the second amended version of the minutes.

Mr. Weingart asked if there were any other comments or corrections and none were received. On the prior motion made and seconded, Ms. Letts accepted the requested amendments, Mr. Scott Whitenack abstained, all others were in favor, and the minutes of November 9, 2006 were APPROVED.

At that time Mr. Erik Peterson arrived.

## **CHAIRMAN’S REPORT:**

Mr. Weingart reported that the Council would need to go into Executive Session for about 30 minutes following the Executive Director’s Report.

## **EXECUTIVE DIRECTOR’S REPORT:**

Mr. Di Pirro reported that the League of Municipalities occurred the week before and noted that staff wasn’t able to be as involved as it normally would have been because of the amount of work necessary for draft Plan completion at the Chester office. He informed Council Members that Mr. Ross MacDonald attended the League on behalf of the Council. Mr. Di Pirro also attended one day in order to update municipal officials and invite them to participate in the Regional Master Plan. Mr. Di Pirro advised he also spoke to the Community Builders Association to provide updates regarding housing in the Highlands Region.

Mr. Di Pirro reported that staff is working on providing a web-based application that would allow members of the public to zoom in on portions of the Land Use Capability Map to examine how it affects them and their town. The existing contract and subsequent modification to acquire this application is minimal, and would not require Council review at this time. Mr. Weingart asked for details on what the application will provide.

Mr. Di Pirro said as soon as possible after the draft Regional Master Plan is released, staff would like to have the proposed web application available. Mr. Borden noted that the amount of the contract modification was \$5,200.

Mr. Weingart then asked if there were any questions before entertaining a motion to go to Executive Session, and noted that the DEP is holding a hearing later in the evening at 7:00 pm in the Chester conference room, but

if the Council has not finished its meeting, authorization to resume the meeting at the Chester Township Municipal Hall has been obtained.

### **EXECUTIVE SESSION:**

Mr. Schrier motioned, Mr. Vetrano seconded, all were in favor, and the meeting adjourned for Executive Session at 3:20 p.m.

At 4:00 p.m. Chairman Weingart called the meeting back to order. He advised that several pending lawsuits were discussed by Council Members and counsel, including the cases OFP, ABD Liberty, Daughters of Divine Charity, and IMO Highlands Applicability Determination. Chairman Weingart noted that, if resolution is reached in any of the cases, they will be reported to the public in open session. He further advised that during the executive session members also discussed several legal analyses regarding takings and the Right to Farm Act.

Chairman Weingart advised that an additional item, which was to be a part of his earlier report, was that at the Council's meeting on November 9<sup>th</sup>, it was suggested that a letter be sent to the Office of Smart Growth (OSG) regarding how OSG and the State Planning Commission (SPC) handle matters related to the Regional Master Plan. Mr. Weingart reported that the letter was finalized and sent with copies provided to all members via email.

Mr. Weingart turned the members' attention to the agenda's next item regarding the memorandum in their meeting packets from the Executive Director dated November 17, 2006. Mr. Weingart also stated that the members need to review the final sections of the draft Plan by this Wednesday, November 22, 2006.

### **REGIONAL MASTER PLAN UPDATE AND RESOLUTION OF OUTSTANDING ISSUES:**

Mr. Di Pirro noted that there were four topics to be resolved beginning with, "Should the draft Plan include the 300' foot buffers on Highlands Open Waters and Riparian Areas that staff recommend for the Plan (and Map) during the work sessions in September."

Mr. Di Pirro noted that all the comments and information provided to the staff regarding buffers has been reviewed, and advised that staff has arrived at the same conclusion as what was originally proposed. The current recommendation is that 300' buffers be used for all Highlands open waters, and that those buffers may be expanded where necessary to protect habitat. Mr. Di Pirro said there is solid scientific basis for the 300' buffer recommendation. He advised that Ms. Christine Ross was able to provide any additional details that members require in order to resolve the issue, and he asked her to step forward to the presenters table.

Ms. Pasquarelli asked if the 300' buffers apply to only the Preservation Area. Mr. Balzano responded that the buffers are blind to the line. Mr. Weingart noted that for vernal habitat buffers may be increased to 1000'. Mr. Di Pirro explained that the buffer standards apply in each of the different zones because the buffers apply at the site plan level.

Mr. Salovaara noted that, according to section 11.a(1) of the Highlands Act, the Council is charged to prevent the degradation of ecological values of the Highlands Region. Ms. Ross agreed and said the buffers will depend upon water quality and other criteria such as habitat. There is regulatory and scientific literature to support the recommendation for 300' buffers.

Mr. Di Pirro said that the provision is also site specific, so that the Council may need to increase buffers to 1000' where it determines it is necessary to protect a specific resource. Mr. Di Pirro said that stream corridor

buffers were increased in the Pinelands where necessary, and therefore buffers become tailored to fit the needs of the particular site.

Ms. Letts asked if the Council will also be able to mitigate the 300' and make it less protective where necessary. Mr. Balzano said that 300' buffer is proposed for protection of the stream corridors throughout the Highlands. However, the Plan recognizes areas where stream degradation has already occurred and there are opportunities to remediate where appropriate.

Ms. Calabrese asked how the Council will be aware of occurrences in and around buffers. Mr. Balzano said that site plan applications will be submitted for review and the Council staff will examine the conditions present on the site. He noted the burden of proof is that further modification will not cause further degradation. Mr. Balzano said the Land Use Capability Map (LUCM) factors in where the open waters are intact and informs decisions as to significant alterations. Ms. Calabrese asked if every single application will come before the Council, and Mr. Balzano said that it hasn't been formally decided yet whether every single site plan will come to the Council.

Ms. Carluccio said in the Plan it states that every buffer is 300', but there are citations that note that it can be brought down to 150' in low integrity areas. It should be clear that it must be proven that action will not cause harm, and that automatic approval of lowering to 150' should not be presumed. Ms. Carluccio stated she has always had concerns over opportunities for restoration, and asked that a positive statement be added in the element to state expressly that "the Council can re-categorize those waterways that are low resource areas if they are approved and that they will then receive the 300' buffer protection. She stated that a mechanism to make restoration occur is needed, and not merely the mention of restoration.

Mr. Weingart said that if there are issues where any members disagree with any statements in the draft Plan, proposed changes should be introduced as a motion in the future.

Ms. Pasquarelli asked Mr. Balzano what if agricultural uses fall into the buffers, Mr. Balzano responded that where agricultural uses are in existence within an ecological stream corridor, those uses will be dealt with in measures that will not limit agricultural uses and will treat them as developed lands.

Ms. Pasquarelli asked if the 150' reduction to buffers will be reviewed and approved by the Council. Mr. Balzano stated that question is addressed in the Plan and the LUCM will demonstrate where the areas are.

Ms. Carluccio said she did not agree with the idea of identifying possible 150' buffer areas on the map because the language of the section leads to the belief that they are automatically lowered.

Mr. Salovaara said he basically agrees with bifurcating the issues to some degree, but he noted that in the preservation area his preference is to provide for a larger buffer than 300' as provided for under section 11(a)1 of the Act.

Mr. Balzano stated that staff has recommended 300' because it feels it is adequate. There are several individual components of the Plan which inform the LUCM and are inclusive of all aspects of the ecology of the Region.

Mr. Tim Dillingham said he also had concerns about whether the buffers are protective enough, but as Mr. Balzano mentioned, when all the layers are added together, they are very protective. Mr. Dillingham said that the new recommendation to allow for expansion of the buffers where habitat is identified, there is a predictability component for letting the areas be seen on the LUCM. He suggested that it should be noted that 300' is everywhere in the Region, and that there is a higher burden for reducing it to 150'.

Ms. Letts asked Mr. Balzano if it would be easy to adjust the language of this section and asked what the correction would be. Mr. Salovaara asked for clarification whether the Council was adjusting the map according to section 11(a)6 of the Act regarding areas that have been developed or which are appropriate for development. Mr. Borden stated that Ms. Carluccio's motion would be to state that there are two circumstances upon demonstration to identify areas where it may be appropriate to lower buffers.

Ms. Carluccio motioned, Ms. Pasquarelli seconded. Mr. Weingart said he believed the proposed change by Ms. Carluccio makes it less predictive. Mr. Vetrano said this policy will not affect towns that do not opt-in, and it will cause them to weigh whether they accept the mandate. He suggests that the Council attempt to keep the process as simple as possible because the more "hoops" that an applicant needs to jump through, the more time and money that is spent. Ms. Letts said Mr. Vetrano raises a valid point because the buffers could cause towns not to conform to the Plan. Mr. Schrier said that this has been an issue from day one, and that he supports the change.

Mr. Weingart said he would not support the change because what the staff has drafted for the Plan, states that there are areas defined that will absolutely be reduced to 150' buffers and it is scientifically based.

Ms. Carluccio said her motion to have a 300' buffer throughout the Region with consideration of 150' and 75' in low integrity areas, on a site plan review basis.

Mr. Weingart asked if any members of the public wished to comment on the issue of buffers.

**Eric Stiles, Audubon Society.** Mr. Stiles said it is clear that the science merits 300' for riparian corridors. He said wildlife needs a variable buffer and said he is encouraged to hear that the Council will utilize a list of resources to apply to areas of ecological resources. He stated that he also supported Mr. Salovaara's statement about the combination of specific criteria layers providing adequate protection when utilized collectively.

**Deborah Post, Chester.** Ms. Post said she has heard members make contradictory statements at the meeting. She noted that any relaxation request as to buffers, the "hoops" that the Council requires applicants to go through will cost time and money. Ms. Post said that she heard it stated at the meeting that determinations will be made utilizing Council data, but also that applicants will provide data.

Mr. Weingart said for clarification purposes that the Council will review any data provided by applicants whether they are residents, towns, or agencies, and that it would be sure to utilize better data whenever it is provided.

**David Shope, Long Valley.** Mr. Shope said he submitted a report called the "Stroud Report" conducted by Pennsylvania Agriculture. He said it examined in the past where they measured the effects on streams using a 75' buffer. He asked whether the Council has reviewed the report and used the data it provided.

Mr. Balzano said that a great deal of information has been utilized to determine that 300' buffers were appropriate and adequate, but could not state for certain whether the Stroud Report he mentioned informed the recommendation.

Mr. Whitenack asked if the revision is more a matter of word-smithing, or if it changes actions that will be taken. Mr. Weingart said that he would not support the change because it is a draft Plan. Mr. Salovaara said he wanted to know whether the Council stays silent, if there would be a waiver issue. Mr. Dillingham said that he would support the Council specifically stating up front where the standards can be waived.

Mr. Weingart said there are areas in the Highlands where the buffer of 300' may be reduced to 150'. Mr. Schrier said he believes the draft Plan has identified these areas and that it is scientifically based.

Mr. Weingart then asked the members to vote on the motion made by Ms. Carluccio and seconded by Ms. Pasquarelli.

In Favor were: Ms. Calabrese, Ms. Letts, Ms. Kovach, Mr. Salovaara, Mr. Schrier, and Ms. Way;  
Opposed were: Mr. Peterson, Mr. Vetrano, Mr. Weingart, and Mr. Whitenack. Therefore, the proposed change was APPROVED, 8 to 5.

At that time, Mr. Salovaara had to leave the meeting.

Mr. Di Pirro stated that the next issue to be resolved would be presented by Ms. Kim Kaiser. The issue is: “Should the draft Plan include “open space design” techniques such as cluster development or lot averaging to protect agricultural lands?” The draft Plan includes a policy to require mandatory clustering and lot averaging to protect farmland and natural resources through the dedication of 80% of a site for farmland and open space.

During Council discussions regarding staff’s recommendations, the issue arose as to the wisdom and efficacy of promoting mandatory cluster and lot averaging provisions on farmland where the draft Plan would allow development. It was suggested that over the long-term the partial development of agricultural tracts will not result in the regional protection of agriculture. Concerns were also expressed about the number of units that would result from a cluster development.

Ms. Kaiser said that the draft Plan would not increase density. Mr. Dillingham noted that the original recommendation for agricultural resource areas, as was stated in the background papers, was to provide that the contiguous nature of the land be priority. He asked if the Council was now stating that where the land use changes from agricultural to something else, that it would allow cluster development.

Ms. Kaiser replied that in areas that are less suitable for farming there is a chance of lessening the density but not increasing it. Mr. Balzano said that the intent of the 80% and the mandatory clustering is the mechanism for development that is suitable in the 20% area to occur.

Mr. Dillingham suggested that there are innovative ways to remove pressure on farmlands, and it is possible that clustering is a mitigating factor. Ms. Letts noted that the use of clustering is more desirable than sprawl for the entire Highlands, not just in Highlands agricultural lands.

Ms. Carluccio said that she cannot see why the Council would support allowing clustering where there is no wastewater or sewer infrastructure already in place. Mr. Borden said the 20% area will be limited by the infrastructure of the site. Ms. Carluccio suggested that the section be amended to state that the cluster approach should be used for agricultural lands that are adjacent to existing wastewater infrastructure. Mr. Dillingham stated that there is a broad conservation zone with areas therein where agricultural resource areas exist. Mr. Balzano said there are agricultural areas that extend into the protection zone and is relatively large. It identifies that portion of farms that are large enough to support agriculture as a resource within the Region.

Mr. Peterson noted the idea of using a deed restriction for those moving into agricultural lands. He asked if the market force would dictate what the number of houses would be placed in any area of the 20% for development. Mr. Balzano said that this does not dictate lot sizes but rather gives examples, and that there would be flexibility. Mr. Peterson asked if the farmer gives up his land who will farm it.

Mr. Schrier said this proposed section provides opportunity for farmers to develop 20% of their land.

Mr. Weingart asked if any members wanted to make a motion to change anything regarding this provision in the draft Plan. Ms. Pasquarelli said she was very sorry that Mr. Kurt Alstede was not present to provide input. Mr. Weingart agreed, and suggested that the issue be tabled for Mr. Alstede’s input. Ms. Carluccio said she was

unclear where this section was found in the elements. Mr. Borden noted it was within the Agricultural Sustainability section. Ms. Carluccio said that it should be clear what lands are included, and Mr. Borden said it is regarding the development of agricultural lands.

Mr. Di Pirro turned the members' attention to the next topic for resolution: "How should Highlands Development Credits be allocated to sending zone properties (by mathematical calculation or appraisals)?" He introduced staff attorney Mr. Jeff LeJava to present the topic to the members.

Mr. LeJava said that staff recommended an approach for determining the net loss of development potential. He said that the market adjustment factor is also to be examined because of the variation in land values across the region. By applying the two factors of lot yield, one can arrive at a credit value rating.

Mr. LeJava noted that the calculation considers the factors related to location and zoning and then determines an end use factor. The other method would be to utilize the appraisal method. Mr. LeJava advised that the appraisal method is more an art than a science, and would be very time consuming.

Mr. LeJava said that property owners would be given an opportunity to dispute the value reached by the Council by providing its own appraisal data.

Mr. Dillingham asked how this method will enhance the TDR program. Mr. LeJava said the method attempts to take away the subjectivity element of the appraisal method and would be more transparent. Ms. Pasquarelli said that she generally agreed with the approach, but asked where the "sanity check" was over time, because the method doesn't appear to be much different than a property tax assessment. Mr. LeJava said the "sanity check" is that the TDR bank has the ability to review real estate data every two years. He reminded that the letter determination received by applicants from the Council was also applicable for two years.

Ms. Letts said she believes people will get their own appraisal because there are subtle things that affect a property's value. Mr. LeJava agreed and said that will be a part of the underlying market data that will be utilized in the process and will be taken into account.

Mr. Weingart asked Mr. Di Pirro to present the next item for resolution regarding scope of TDR.

Mr. Di Pirro advised the next issue for resolution is: "Should the draft Plan establish a system for ranking lands in TDR sending zones that would be used by the Highlands TDR bank when purchasing credits and by DEP and other agencies when considering which lands to purchase?"

Mr. Di Pirro stated that at the last work session the issue was whether the TDR program should apply to any and all property that suffered reduction in value, or whether it only applied to lands identified as needing to be preserved or designated as "no-build." The staff's proposal hadn't gone either way, but was based on three factors: 1) importance of resource; 2) the Act itself says to consider those which almost made the grandfather date, and 3) hardship situations. Mr. Di Pirro stated that staff focused on identifying where TDR ought to be used first once the bank is operating, and to determine when to buy the credits.

Mr. LeJava noted that the importance of Highlands resources are identified within the LUCM. He identified that prioritization of hardship could be based upon unique and extraordinary financial hardship which includes: imminent bankruptcy; death in a household; lengthy illness or serious injury in a household; exhaustion of unemployment benefits and still unemployed; unusually high medical expenses; or other extreme, sudden, and/or extraordinary circumstances.

Ms. Letts said that not all lands being acquired will be acquired through the TDR program and asked how the Council will we determine when to use Green Acres versus TDR, or any other land acquisition program. Mr.

LeJava said that the first tier would be the most critical for preservation, the next tier would be TDR and the bank would consider those.

Mr. Dillingham said that TDR is a mechanism to move the resource goals forward and has been misinterpreted as a mechanism to compensate the landowners. He asked why couldn't the Council add these factors to the private sales as to geography. Mr. LeJava replied it has to be consistent with the State TDR Act, which states it cannot impair the market to operate.

Mr. Dillingham suggested that a placeholder be placed here, and asked if there could be a consensus to "incentivize" as a priority. Mr. Weingart said the TDR program depends upon this. Mr. Di Pirro said it would be easy to add this in. Mr. Weingart noted that the Agricultural Subcommittee could meet before next week and discuss the language in the draft to bring to the meeting on November 30, 2006.

Mr. Di Pirro noted that he hoped to gain the most input as possible before November 27, 2006. Mr. Schrier said that Council members should be allowed to call in on Monday to give input.

Ms. Carluccio said that there were a few issues that needed to be addressed, such as whether the Council will allow towns to participate in the TDR program without conforming to the Regional Master Plan. She felt that it needs to be resolved, and believes they should be required to conform.

Ms. Carluccio noted that she would not support potential voluntary receiving zones identified in the specially planned. She motioned that under 3i the first policy that allows specially planned areas to be receiving zones of TDR credits, that "specially planned areas" be struck. No second was received on Ms. Carluccio's motion.

Mr. Balzano said the specially planned areas are small regional growth areas in the Preservation Area or Planning Area. The purpose is to redevelop previously developed areas that may be brown fields, or areas with greater than 70% impervious cover. Mr. Borden said there may be instances where it may be appropriate but it will be decided ultimately by the Council. Ms. Carluccio said she believes the Council should not be targeting these small areas for more density.

Mr. LeJava advised that one criterion for being designated as a receiving area, is that the area has to be consistent as to existing infrastructure. That analysis will be done on specially planned areas. If it doesn't make ecological sense to have the area as a receiving zone, then it will not be one. He stated that the desire was not to dismiss all areas at the outset.

Ms. Carluccio said that another issue she thought ought to be resolved was whether to allow Planning Areas to participate in TDR and be receiving zones without conforming to the Plan, and that she believed they should be required to conform. Ms. Pasquarelli noted she opposed this prospect because it will jump start the TDR program, and stated that the ecological analysis Mr. LeJava mentioned will be done before permitting them to participate in TDR. Mr. LeJava said the designation will first be reviewed and approved by the Council. Mr. Dillingham said he would second Ms. Carluccio's motion.

Mr. Weingart asked if any members of the public wished to comment.

**Eric Stiles.** He strongly supported the motion by Ms. Carluccio seconded by Mr. Dillingham because parcelizing elements of the Plan causes a loss of control over what happens outside the areas. He said Mr. Dillingham was right that there are huge incentives for these towns to grow.

**Helen Heinrich.** Ms. Heinrich disagreed with the motion. She said whatever the Council can do to create receiving zones should be done. There are so many restrictions on whether they can be receiving areas, and there are opportunities to amend this in the future.



**Deborah Post.** Ms. Post agreed with Ms. Heinrich's statement. She thought the issue is supply and demand and urged the Council not to limit the receiving zones.

**Wilma Frey.** Ms. Frey said she agreed with Mr. Stiles. She said there needs to be a comprehensive view of the Highlands and the entire region to promote opt-in and conformance.

**Tina Bologna.** Ms. Bologna said she supported the motion and noted the issue is about capacity. Ms. Bologna said without requiring conformance with the Regional Master Plan, there will be no say as to what development goes on in a town and without conformance the capacity limits can be over reached.

**David Shope.** Mr. Shope said he is against the change. The people in the TDR sending zone need the Council to create receiving zones and he is against anything that limits possible receiving zones.

**Candace Ashmun.** Ms. Ashmun noted that in the Pinelands, a receiving area that is not well defined, is not successful. A good TDR program requires good planning, and she thinks towns should opt-in to be a receiving zone. She noted that it failed in the Pinelands when they did not.

**Frank Minch.** Mr. Minch said he attended the meeting for Monique Purcell and that he supports flexibility and echoed what Ms. Heinrich said.

**Julia Somers.** She supported Ms. Carluccio's amendment. Ms. Somers stated that if there are benefits from the State TDR Act to be a receiving zone, and if they don't opt in, there are benefits. She mentioned Egg Harbor Township, which is a receiving zone without the planning, and no one wants to live there.

**Nicole Goger.** Ms. Goger said that the TDR receiving zones will have planning power by the Council and won't constitute unrestrained growth areas.

Mr. Weingart said the current draft proposed that the receiving town does not have to opt-in, and the motion for amendment made by Ms. Carluccio and seconded by Mr. Dillingham was that they do have to opt-in. Ms. Tahesha Way applauded Ms. Carluccio for bringing this issue up, because from a futuristic point of view she said that there has to be an eye on sustainability for water resources and the limiting of overgrowth. The TDR program has to commingle TDR and water resources. Ms. Pasquarelli also congratulated Ms. Carluccio for picking up on an issue that needed resolution.

Mr. Weingart asked which members were in favor of the motion, they were Ms. Carluccio, Mr. Dillingham, and Ms. Way, all other members opposed, motion DENIED.

Mr. Weingart said he wanted to know what other issues members had.

Ms. Pasquarelli said she had a list of things the Council should address such as the section in Plan with uniform guiding principles. Mr. Di Pirro said that there was a consensus reached to delete the section. Ms. Pasquarelli also noted that issues related to ultimate decision making authority need to be addressed. Mr. Di Pirro noted that the Council would address those matters in December. Ms. Pasquarelli asked whether the COAH requirements would be increased for receiving areas. Mr. Di Pirro stated that this issue is under examination and that staff is exploring with COAH a regional approach to relieve pressure. Ms. Pasquarelli said that she wanted to know if Mr. Borden has any information regarding funding for landowners, or the outstanding issue Mr. Steve Shaw raised at the last Council meeting. Mr. Borden advised that he did speak with Mr. Shaw that day before the meeting. Mr. Di Pirro noted that he could provide this information to Ms. Pasquarelli after the meeting.

Mr. Weingart noted that the guiding principles section would be very time consuming, and stated that the Act provides sufficient framework and detail in that regard. Ms. Pasquarelli noted that there is great latitude in the Act as to guiding principles, and thought maybe the Council can agree upon some. She stated she would like to leave it as an open issue to readdress after November 30<sup>th</sup>.

Mr. Vetrano asked if the draft Plan he had in his hand would be obsolete after November 30<sup>th</sup> 2006. Mr. Borden advised that the Council members will receive one additional draft Plan section that evening, and then another complete set of all the sections the next day.

#### **PUBLIC COMMENT PERIOD:**

**Helen Heinrich.** Ms. Heinrich said that clustering is a way to tap some equity and preserving 80% at no cost to the public. She stressed the need to plan for the other 20% of the land, and the effects on agriculture. She said that this provision gives the Council the opportunity to examine the land for possible alternatives rather than across the board “no build.” She suggested the Council pay close attention to what Ms. Ashmun said about what occurred in the Pinelands. She noted that she was glad that the Council delayed the agricultural portion until Mr. Alstede can be present.

**Deborah Post.** Ms. Post thought it was a bad idea to use hardships and grandfathering to set values. Qualitatives will create unfair practices. As to easements for TDRs, she thought the more simple the document, the higher the land value will be in the after market. She said that the Council should remember that agricultural use will not be a beneficial use in a courtroom. She said that farmers lose money, and in court, on paper they are financially all in the red. She said that many people farming in the region have cut way back on farming because they didn’t want to lose their homes. She seconded what Mr. Vetrano said about preserving land values. She would like more information regarding clustering. She stated that the Council defines value by using the original zoning capacity back to 1998. Waste infrastructure has to be blind to municipal lines. On the 20% where the Council doesn’t want cluster development in high protection areas, it could require a market buy out by the state. Mr. Weingart said for clarification that hardship and grandfathering were not part of determining value, rather they are to be considerations for prioritizing TDR sending participants.

**Richard Longo, Boonton Township.** He said the Act is a law that should be applied to the whole state and not just the Highlands. He believes that municipal wells can be developed, and noted that on this date in 1779 New Jersey was the first state to ratify its Bill of Rights. He thinks the Regional Master Plan should conclude with a statement to the Legislature that the Plan is not in effect until money is in place.

**Julia Somers.** Ms. Somers said with regard to the Agriculture section, that she has some confusion, and notes that Ms. Post’s comment about maximizing the land value for the land owner, she is not sure the Act requires that. She asked if the Council is considering that smaller parcels are less valuable. Ms. Somers said where there is infrastructure for sewer on the edges of agricultural lands, she suggested the Council look at the entirety of the zone and not on 250 acre parcels. She thinks TDR would remove the ability to farm, and by selling the rights, the use of the property is lost. She wants to know how the public will be able to access the maps because they may be difficult to download and people will be most interested in the maps.

**David Shope.** Regarding TDRs, Mr. Shope believes they should not be confused with conservation easements. He asked what legal authority the Council had to bundle them with TDRs. He said agricultural viability cannot be created by zoning. He agreed that Ms. Post was right to suggest using 1998 zoning.

**Wilma Frey.** She said the issue of 80/20% clustering of agricultural lands is basically a vision for suburbanization in the Highlands and the word used by Ms. Heinrich as to “polka dots of development” is exactly accurate. There should be a reminder to the Council of the need for contiguous lands. She doesn’t believe that it is the preservation of the farmland as was intended by the Act, nor the scenic intention of the Act.

Ms. Frey stated that the New Jersey Highlands aren't that big. Further fragmentation will ruin the quality and beauty of the region.

**Paul Chrystie.** As a matter of follow up from the last Council meeting regarding a modest increase in the Garden State Preservation Trust, that small increase will not come close to what is needed in the Highlands, let alone for the whole state. In the next three months, the Council should take a leadership role.

**Eric Stiles.** He said a compelling issue as to agricultural zoning, is sewer lines being put out to areas that cannot support it. With regard to zoning with the 80/20% split, Mr. Stiles said farmers should be engaged. As to view sheds, if there are checker-board developments going up, habitat and a whole lot of species will be displaced. Also he said Mr. Dillingham was correct that exempted parcels have to be included on the list as a fourth element. If the Council or state is the public trust, easements are a huge liability and very difficult to sustain. He commended Ms. Tahesha Way for bringing up the fact that we need to protect the quality of life in a futuristic view without forgetting that cities such as Newark also benefit from Highlands water.

**David Tullo, Lebanon Twp.** Mr. Tullo said he thinks clustering is a great concept. It is a great way to balance preservation with providing housing. The revenue from clustering to farmers is well deserved. He said he would use the money to buy farm equipment. He stated he has 130 acres and will continue to farm because he enjoys it even though it is very demanding, physical work. The farmers would continue to farm and their children may even follow in their footsteps if there is a future in it for them. Anything the Council can do to utilize cluster building for agricultural lands would create a real possibility of a future for farmers.

Mr. Borden asked the members to see him at the receptionist's desk after the meeting. Mr. Weingart thanked the members and public for attending and asked if there were any further comments, and none were received.

**ADJOURN:**

Mr. Schrier motioned to adjourn, Ms. Letts seconded, all were in favor, and the meeting ADJOURNED at 7:25 p.m.

Vote on the Approval of

the November 20, 2006 Minutes

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Calabrese	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Carluccio	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Dillingham	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Kovach	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Letts	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Pasquarelli	<u>    </u>	<u>    </u>	<u>    </u>	<u>  x  </u>
Councilmember Peterson	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Salovaara	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Schrier	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Vetrano	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Way	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Weingart	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>
Councilmember Whitenack	<u>  x  </u>	<u>    </u>	<u>    </u>	<u>    </u>

*John R Weingart*

John Weingart, Chairman

Dated: 1/11/07