

MINUTES

**NEW JERSEY HIGHLANDS COUNCIL
MEETING OF SEPTEMBER 14, 2006**

PRESENT:

JOHN WEINGART)	CHAIRMAN
KURT ALSTED)	COUNCIL MEMBERS
TRACY CARLUCCIO)	
TIM DILLINGHAM)	
MIMI LETTS)	
JACK SCHRIER)	
DEBBIE PASQUARELLI)	
MIKAEL SALOVAARA)	
SCOTT WHITENACK)	

ABSENT:

ELIZABETH CALABRESE
JANICE KOVACH
GLEN VETRANO

The following are the minutes from the New Jersey Highlands Council meeting which was held at 100 North Road, Chester, New Jersey on September 14, 2006 at 4:00 p.m.

CALL TO ORDER:

The Chairman of the Council, Mr. John Weingart, called the 33rd meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:05 p.m.

ROLL CALL: The members of the Council introduced themselves.

PLEDGE OF ALLEGIANCE was then recited.

OPEN PUBLIC MEETINGS ACT:

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

MINUTES OF SEPTEMBER 7, 2006:

Mr. Jack Schrier motioned to approve, Mr. Salovaara seconded. Ms. Mimi Letts requested a clarification be made to her comment on page 6, paragraph 4 to state "...staff should create a cross-reference of the legislative demands and the various elements of the plan and supporting documents." Ms. Debbie Pasquarelli stated that specific changes had been made and distributed for page 8 and requested at page 10, paragraph 4 that the minutes reflect that it was Ms. Carluccio and not herself who commented that "...the Council should do what the DEP couldn't do." On page 5, last paragraph, Ms. Pasquarelli asked that her comment be clarified to now state that she "...asked when the Council would be making decisions relative to the policy issues." On page 9, paragraph 8, line 4, Ms. Pasquarelli requested her comment be changed to state: "...leave the technical memoranda as they are, but take the white paper and the background paper and re-form them into one."

Mr. Schrier and Mr. Salovaara accepted the requested changes, no further comments were received, all others were in favor, and the minutes of September 7th, 2006 were APPROVED.

Mr. Schrier noted that staff has provided copies of the Act in the members' packets, but added that he had a copy of the Highlands Act on disc which he would be happy to share copies of with the Council members.

CHAIRMAN'S REPORT:

Chairman Weingart advised that Council member nominees, Ms. Tahesah Way and Mr. Erik Peterson, were both present and seated in the front row of the public. He further advised that the Senate Judiciary will hold a hearing on Monday September 18, 2006 regarding their appointment to the Council. He thanked them for attending, and noted his hope that they soon will be confirmed.

Mr. Weingart reminded that the majority of time at Council work sessions will focus on the plan, but that the public would be given an opportunity to comment after the meeting ends during a public availability session. He advised that a summary of the comments received after the September 7th meeting was included in the members' packets. Mr. Weingart noted that the meeting would end promptly at 10:00 p.m., but that he would stay afterwards along with any other members that would like to, in order to receive public comments. He advised that this format will continue to be utilized for all upcoming work sessions.

Mr. Weingart noted that the introduction to the plan is well under way and being written by the staff. It will be discussed during upcoming work sessions and said that the Council and staff need to create a mechanism for the Council members to review and edit those sections. Chairman Weingart said between this meeting and the next, he would like the members' suggestions as to the possibility of forming an *ad hoc* committee to conduct those reviews. He asked if any other members had reports.

Mr. Schrier commented that last Thursday's meeting was notable, but the sad fact was that even though a lot of good came out of the meeting, very little substance was covered. Mr. Schrier thought the members should allow the presentations to be made, absorb what is being presented, and comment later because there will be ample time for members to comment along the way without burrowing too deeply in some areas. Mr. Schrier noted that the meetings are work sessions, and it was his opinion that the Council needs to be more productive if it is going to make necessary progress.

Ms. Carluccio said she thought the Council should not attempt to format members' input because it is necessary to go through the process of addressing substantive issues which members have regarding policy papers. She said she didn't know of a better way to address the questions, and that the Council cannot afford to put off difficult questions on the topics.

Mr. Weingart said he would like the Council to adequately air concerns and discuss the substance of each report at the meeting, but without an expectation that everyone will come to a consensus. He noted that the staff will identify concerns so that as it collects the members' input, they can come back to the Council with a draft plan to reflect what changes have been made based on those comments. Mr. Weingart added that when the Council begins voting on the draft, and the public provides comments, amendments and changes can be requested. He turned the meeting to Mr. Dante Di Pirro for the Executive Director's report.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Di Pirro stated he would forego giving a report in order to get right into substance. Mr. Weingart then turned to Ms. Pasquarelli for the Committee reports.

COMMITTEE REPORTS:

Ms. Pasquarelli said she would do the same in foregoing the **Land Preservation Committee** and **Budget and Finance Committee** reports, and table them with the intention of addressing them at the next meeting. Chairman Weingart turned the meeting back to Mr. Di Pirro to introduce the work session topics.

DRAFT RMP WORK SESSION TOPICS:

Mr. Di Pirro advised the members they would find a two page document in their packets which outlined a power point illustration being made to achieve the work session objectives. He advised that the focus would be on the policy issues that the members' have stated they want to address.

Mr. Di Pirro said that staff will begin with the policy recommendations. On each policy paper, staff has outlined the recommendation, provided the rationale used, and provided indications of the requirements and goals of the Highlands Act. He noted that if further evaluation of issues is needed after discussion, the staff will re-work the information and bring it back to the Council based on that guidance.

Mr. Di Pirro said the staff will continue to build the land use capability map and the draft Regional Master Plan based on that strategy, and stressed that until the Council takes a formal vote on the draft plan, the members are not bound by any means and can make requests for changes. He asked that the members turn to the document on Significant Natural Areas.

Significant Natural Areas:

Mr. Di Pirro stated that Section I of the policy document focuses on the designation of Significant Natural Areas which are to be included in the plan in order to protect these areas. He noted that these areas were typically sites with unusual or exemplary plant communities, for example -- bogs and forests, as well as sites with significant geological features. There are also citations provided in the paper to explain how the staff's definitions relative to Significant Natural Areas were formed.

Mr. Di Pirro outlined that Section II of the policy document addressed the Highlands Act's specific goals for protection, which include contiguous forests, wetlands, vegetative stream corridors, steep slopes, critical habitat for flora and fauna with an accurate delineation of those areas. Protection for crucial adjoining lands is also extremely important in order achieve the goals.

Mr. Di Pirro said that Section III addressed implementation of the goals to establish and maintain the inventory that documents where the areas are, requirements for inventory and protection measures for those areas, and finally establish the standards.

Mr. Di Pirro summarized and stated as to all the different topics, the staff has identified the resources, and worked toward determining how to protect them, and also provide recommendations on standards imposed to achieve resource protection. He then turned to Mr. Balzano to begin the presentation on staff recommendations.

Mr. Balzano thanked Mr. Di Pirro for the outline and noted that the policy papers have had format changes to address the comments received from the Council. Staff has added a section dedicated to the requirements of the Act, and has tied those requirements back within the context of each policy recommendation being made. He noted that staff prioritized specific actions sought from the Council at this meeting as to policy issues related to advancing the plan. They are in numerical order and hope to facilitate member discussion and productivity.

Mr. Balzano said the policy recommendations identified include policy statements to be deliberated by the Council. The staff rationale is provided as to why the recommendations are being made. Mr. Balzano said Section I also discusses how the resource information informed development of the Land Use Capability Map (LUCM). The Regional Protection Zones with the highest environmental quality have the most restricted uses, while Regional Development Zones which have the least amount of environmental quality and have growth potential.

Mr. Balzano said the paper then addresses RMP policy standards, including resource protection and smart design standards. They are similar to bulk standards and ordinances that would be applied on a site design level. The LUCM defines zones and use standards, and that the RMP standards define standards that must be addressed during site plan review in the prospective zones.

Mr. Balzano advised that the document next addresses pre-conformance goals, with details on implementation of standards and guidance documents. Secondly, the conformance process for municipalities and counties including those requirements for them to come into conformance with the Regional Master Plan.

Mr. Balzano said the final area of the policy document focuses on long range plans, where 5 year goals are addressed. The efforts will include coordination and consistency with local participation to further advance key issues, and discusses next steps that cannot be addressed on the first round while other federal and state programs come into consistency with the Regional Master Plan goals. He noted he would introduce the first policy and then would open up discussions and address questions.

Ms. Pasquarelli said that the new materials were much improved and better to work with, and thanked the staff for executing the suggestions into the new documents since its last meeting. She stated she felt more confident and now has a clearer view of how the information will all fit together into the plan.

Mr. Balzano noted that there are broad statements as to policies but numerous details will need to be addressed. The policies shape the plan, and staff is working to be consistent with what the Council wants. He noted that questions on details which arise can be addressed during pre-conformance. He noted the staff would like to focus on the broad decisions first, and then make more detailed recommendations as it proceeds.

Mr. Balzano stated that policy number one focuses on the inclusion of Significant Natural Areas in the Regional Master Plan. Significant Natural Areas address a number of requirements under the Act, one of which is to identify those areas with unique importance due to their features.

Staff has identified a number of Natural Areas that are appropriate for inclusion in the Regional Master Plan. They are sites which have unusual ecological qualities, including rare or endangered plant species, as well as unusual ecological communities and adjoining lands necessary to protect the Significant Natural Areas. He noted staff has worked extensively with the NJDEP Natural Heritage Program to learn what areas they have already identified as priorities. Mr. Balzano said the Significant Natural Areas should be given a high level of protection and are being recommended for inclusion in the plan and incorporated by reference into the LUCM.

Mr. Weingart asked for example, if the Council agrees with what the staff has recommended on a policy, when the draft Regional Master Plan is presented, whether a map depicting those areas would be presented. Mr. Balzano said there are maps, however, there are a series of technical documents which describe where the areas are, and how many lands are included. As the LUCM continues to be developed in October, and as the Council makes decisions on what Significant Natural Areas are to be included, there will be a layer illustrating those areas. A picture of the region expressed as zones will form as areas are approved for inclusion, and are incorporated into the LUCM.

Ms. Letts said with regard to one document she received, it contained a list by the NJDEP of significant natural areas. She asked if that list was what staff was recommending. Mr. Balzano said staff has recognized that there are both regional and local sites of importance being considered as Significant Natural Areas, but that it used the list she spoke of for initial identification purposes.

Mr. Balzano stated that there will be opportunities to allow for nominations for inclusion of additional sites. Ms. Letts noted for the record that Troy Meadows was not on that list, which is about 2,000 acres that should be on the list. Mr. Di Pirro advised that staff is using the existing Heritage data base now, and will continue to build on that inventory, and will look to include all the areas as they are identified.

Ms. Pasquarelli asked when additions to the list will begin. Mr. Balzano replied throughout the continuing development and implementation of the RMP. He noted that at the time of pre-conformance, the guidelines for the criteria of nominations will be decided on as a separate policy. Municipalities and interested parties will then nominate to the Council the inclusion of sites. Once conformance begins, a requirement will be outlined for municipalities that wish to conform, and they will develop a local nomination process.

Mr. Salovaara said he thought as soon as practicable, the Council should release to the public the draft list and proposed standards to solicit their input now. He expressed there may be items on the draft list which should not be there. Mr. Balzano advised that the list was publicly available for inspection and comment.

Mr. Weingart questioned whether it would be realistic to solicit feedback on this first policy item, considering the time limits the Council faces for releasing the entire plan, and reminded that release of the draft plan will accommodate soliciting input on all areas.

Mr. Salovaara asked if the definition of Significant Natural Areas was created by the Council, or whether it was a Highlands Act term. Mr. Balzano said it was a Council term which will be referenced in the RMP to promote understanding, but which also addresses a specific requirement in the Act which appear in bold print.

Ms. Carluccio noted that the glossary was helpful as to definitions. She asked if before the Council reaches the conformance process, whether it would be soliciting input from towns regarding their natural resource areas. She further suggested that before the Council considers any types of land use changes, that those proposed properties be fully researched as to the presence of significant natural areas criteria.

Mr. Balzano said that the policy addresses an intention to require municipalities to conduct that effort. He noted that Troy Meadows was a good example of a site with local concerns for inclusion.

Chairman Weingart interrupted the discussion to inform the Council that it had a special guest, and welcomed Governor Jon Corzine, accompanied by NJDEP Commissioner Lisa Jackson, to the meeting. Mr. Weingart asked the members to introduce themselves, and he also announced and introduced to Governor Corzine the two Council member nominees, Ms. Tahesah Way and Mr. Erik Peterson. He welcomed Commissioner Lisa Jackson, and invited them to take a seat at the presenter's table.

GOVERNOR JON CORZINE ADDRESS TO THE COUNCIL:

Governor Corzine thanked the Highlands Council for allowing him to interrupt in the midst of their work. He stated that his objective in attending was clear. It was to stress the great importance that the Council create and adopt the draft plan, and also the importance of the timely release of that plan to the public for commentary.

Governor Corzine expressed his appreciation to the Council and staff for its efforts on drafting the plan, and noted it was his desire to work with the Council to ensure that the draft plan is completed on the proposed date of October 26th, 2006. He acknowledged his awareness of the great deal of time and energy that the Council has put into its meetings, and stated he has read the Council's meeting minutes and finds the work that they are undertaking is very interesting. Governor Corzine remarked that the Council has before it the opportunity to create a legacy for the entire State of New Jersey. With regard to the draft adoption, he urged the Council to stay as close to schedule as possible.

Governor Corzine highlighted the need for providing clean, plentiful water to residents as well as preserving and protecting the State's resources. He suggested the Council remain ever mindful to why the Highlands Act came to be. Governor Corzine noted he worked with Congressman Frelinghuysen on resource issues in the past, and noted that much work must also be accomplished in order to assist all those residents who could have and have had their property rights impinged.

Governor Corzine stated that sustainability was extremely important on a broad scale, and that saving resources is paramount because once lost, they cannot always be recovered. He stated he looks forward to the release of the Regional Master Plan to provide the basis for improvements for the future of the State. Governor Corzine acknowledged the fact that Council members are volunteers in this endeavor, and expressed his great support for their decision to undertake such a difficult task. He advised he would like to partner with the Council and provide his assistance in obtaining the necessary resources for a successful plan.

Governor Corzine said he has publicly made a commitment to the landowner equity issues, and will be addressing them in a November of 2007 ballot issue with regard to the Garden State Preservation Trust (GSPT). He noted his ability to advance those issues will be assisted when the draft plan is completed. Governor Corzine implored the Council, while realizing they had a very difficult process before them, that they must resolve issues and complete the plan on schedule. He recommended that the Council avoid "making the perfect be the enemy of the good."

Governor Corzine noted that he expects Commissioner Jackson and the Department to work with the Council in every possible way to achieve ultimate success. He referred back to the work of the Pinelands, and noted they similarly dealt with difficult decisions, and said that the resulting outcome of that work was undeniable improvement for the State. The Governor stated that his presence at the meeting was not intended as a criticism, but rather to let the Council know they have support and a good faith effort extended to them.

Chairman Weingart thanked the Governor for that support, and noted the Council's great appreciation for his decisions during the July 4th budget events which left the Council's budget intact.

Vice-Chairman Schrier also thanked the Governor for coming, and said his presence underlines how important the task is and that the Council greatly appreciates his support. He told Governor Corzine that the Council did not want to move the deadline. Governor Corzine replied that there were some legitimate personnel and change of administration reasons which impacted the timeframe and were unavoidable, but noted that now was time to complete the plan. Mr. Schrier agreed, and noted that the Governor mentioned his past work with Congressman Frelinghuysen and Senator Lautenberg, and although funding was authorized in the federal Highlands Conservation Act, it has not been forthcoming. He asked if he could comment on that issue.

Governor Corzine stated that in the federal Highlands Conservation Act, \$100 million dollars was set aside, and that law provides that if portions are not used they are not lost and will accumulate. He advised that the funding remains to be allocated and fought for each appropriations season in Washington. Governor Corzine explained to the Council that they may not hear about it until the eleventh hour on the last date of a given budget whether the money will be allocated, but advised that even up to the tenth year, if no funding is allocated, the hundred million will remain in place. He advised that with strong leadership, and their continued support and commitment, he will work with them to make every effort to ensure that funding flows.

The Governor stated how important the effort of focusing on the Garden State Preservation Trust was and that he intends to examine the Transfer of Development Rights, and other methods for generating resources in a thoughtful way as to land equity rights. Governor Corzine emphasized the need to keep sustainability a high priority.

Ms. Pasquarelli thanked Governor Corzine and Commissioner Jackson for visiting the Council, and said his comments were a good segue for mentioning that she chairs the Council's Land Preservation Sub-Committee, and that the subcommittee through its work has begun serving as an advocate for the needs of the region. Ms. Pasquarelli also said that the committee was in the process of drafting a letter to the Governor about the reauthorization of the Garden State Preservation Trust and noted the Council's strong commitment to assisting the Governor and his staff in its work on reauthorization of the GSPT.

Governor Corzine said the strong argument for the region is that the water supply is a fundamental element of sustainability for the entire State. He noted that water supplies are driven by the protection efforts made in the Highlands. He added that there exists a strong basis to get serious amounts of resources for renewal of the Garden State Preservation Trust.

Ms. Mimi Letts expressed her appreciation to Governor Corzine for showing his support. She commented how incredible the task was that the Council was asked to complete in 18 months, and said it would have required a near miracle. Ms. Letts also said she was glad to hear the Governor note his understanding that when the Council releases the draft plan, it will be seeking guidance and input. She further noted that the plan will evolve based on that public input.

Mr. Kurt Alstede thanked Governor Corzine and Commissioner Jackson for attending, and said that he hopes the Governor will use the opportunity to fill the fifteenth seat on the Council with another Highlands Preservation Area resident since he is the sole representative. He told the Governor he is a resident with a retail business, and noted that a good majority of people in the Preservation Area have lived there all their lives, and then along came the Act. He noted it would be a great idea to have another member from the Preservation Area on the Council to assist him with voicing their specific concerns. The Governor responded that was a worthy

suggestion. He explained the law is the most complicated he has seen with regard to eligibility requirements for nomination to the Council, and compared it to the complexity of a Rubik's Cube.

Mr. Alstede also mentioned that it was unfortunate that the Legislature did not create a permanent funding source concurrent with the Act. He said it was his sincere belief that if that had occurred, people would not be as scared. Many Preservation Area residents understand the goals and agree with them, but fear that they cannot support the burden of providing water for 5 million residents of the State. He asked that the Governor and the executive branch identify the funding sources and provide them, which would help give assurance to the residents and comfort in knowing that their lives work has not been taken away. The Governor noted it was perfectly understandable that residents have anxiety, and acknowledged the responsibility to do everything possible to protect them. He said there is much work to do, but assured that he will continue to make every effort necessary in that regard.

Mr. Scott Whitenack stated that it "speaks gallons" that Governor Corzine came to the meeting. He noted that the staff has been working very hard, and thought that his appearance today will undoubtedly be a morale boost, and also assured the Governor that the job will get done. Mr. Whitenack expressed his appreciation for the Governor personally coming to offer his support.

Ms. Tracy Carluccio also thanked the Governor for coming, and said that his and the Commissioner's presence speaks to the importance of the Act for the entire State. The Council is examining issues right down to lot size but added that their presence serves as good a reminder that the plan does affect the entire State, particularly those that use water in the Highlands. She thanked the Governor for that perspective.

Mr. Tim Dillingham agreed it was very important that the Governor and Commissioner came. He also thanked them for their reminder of the central tenement of the Council's work. He noted that a large part of the challenge is the endeavor to change long time status quo of how to go about protecting the environment, and what is done long term to the land. Mr. Dillingham stated it will not be easy, but the damages to the region and the future risks have been seen, and are the direct consequences of bad practices in the past. He appreciated the Governor's recognition of the need for change, and the protection of the resources for sustainability. Mr. Dillingham said it was his belief that much of the clash will have to do with how much we change, and expressed his appreciation for the Governor's support.

Governor Corzine replied that what Mr. Dillingham said relates back to what Mr. Alstede stated regarding the need to work on ownership equity in the best ways possible. He believed that economics would improve if the fundamental sustainable elements for protecting the water and land are put in place. The Governor said he thought that this was a great conceptual environmental success, as well as a human success if it is done right.

Governor Corzine said that it might just be his personal preference but that he enjoyed holding 4:00 p.m. meetings because when you hold meetings at night, you increase the ability to receive public comments. He said doing so can be more difficult, but that it could prove better in the long run. Chairman Weingart reported that at the Local Participation Committee meeting earlier that day, the public hearing schedule for release of the draft plan was discussed, and it was suggested that the Council hold at least half of the meetings in the evening.

Governor Corzine repeated that he thought the Council and staff were doing an excellent job, acknowledged them for taking on the difficult and complex challenges and such a hard task. He encouraged them in completing the draft on schedule, noted that he looks forward to seeing the plan, and finished by saying it was his intention to continue to fight vigorously for the funding of the Council's objectives.

Mr. Weingart turned the meeting back to Mr. Balzano to go through all the policies for natural areas and answer questions that must be answered, and then discuss the lists of topics.

Significant Natural Areas (continued):

Mr. Balzano asked that the Council turn to the second policy for inclusion of Significant Natural Areas within the resource protection zone of the LUCM. These were the areas which are intended to be given maximum protection.

As the draft of the plan evolves, Mr. Balzano noted that necessary resource protection standards and requirements would seek to limit development and alterations where it is determined that certain uses would be incompatible with the protection of the resource. There will be some flexibility for management of those sites recognizing there will be activities that will be compatible, with management requirements in place to maintain integrity over time.

Ms. Letts asked how the Council will determine whether uses were compatible or not. Mr. Balzano advised there is a provision for the requirement of management plans on a site specific level. He stated as an example, the maintenance of a nature trail would have specific management requirements, and sites such as Troy Meadows, where invasive species are of great concern, there would need to be site specific plans developed after plan adoption as part of municipal conformance.

Mr. Balzano said municipalities with Significant Natural Areas in their community will include them by reference in their ordinances and in their master plans. Mr. Balzano asked that the Council keep in mind that as it requires a conformance element, it has the ability to provide grant support to municipalities to address that requirement.

Ms. Pasquarelli asked that Mr. Balzano clarify that what he was discussing applied to both the Planning and Preservation Areas. Mr. Balzano replied that was correct, and there are clear distinctions between Planning and Preservation Areas. The Preservation Area has already had regulations with contain rules and standards adopted by the DEP that relate to protection of plants. By reference, those rules would be incorporated, and if sites are within the Preservation Area they will be adhering to those DEP regulations. He noted the Council will create enhanced standards that will also apply in the Preservation Area.

Ms. Letts suggested a scenario where a town is within a Planning Area, and it wants to conform with the plan, she asked if it would be required to develop standards. Mr. Balzano replied that the Council would develop the standards, and that municipalities would have to adopt them as part of their municipal land use laws. Mr. Weingart asked if local governments would apply the Council's standards to their local zoning. Mr. Balzano replied he was correct, in that the Council develops the standards, and the municipality would adopt them through ordinances that apply to Significant Natural Areas within their town. Mr. Balzano also clarified that the Council is developing standards that would apply to the protection of Significant Natural Areas.

Mr. Schrier said that Planning Areas are not forced to comply and Mr. Balzano agreed, that conformance in the Planning Area is voluntary. Mr. Whitenack noted that this is an issue that arises because even though the Council is blind to the line, there are still uncertainties as to what the plan will affect in the Planning Area. The standards may be somewhat easier to implement in the Preservation Area, but not so easy within the Planning Area. Mr. Alstede weighed in on the issue and noted that there are many questions and anxieties that Mr. Whitenack raises because the standards for Significant Natural Areas can be overwhelming to towns. Mr. Whitenack said that on a micro level it is overwhelming but he is referring to towns that don't fit into the same definitions as Preservation Area town.

Ms. Carluccio said she didn't want the Council to edit the science, and Mr. Whitenack responded that many issues will not be black and white, and that decisions would need to be made regarding gray areas as well. Mr. Dillingham said that the Council could look to what the Act directs it to what degree development can be restricted by its requirement to protect the resources. He believed the litmus test should be what the Act directs the Council to protect as to those resources.

Mr. Schrier said that it was decided at a prior meeting that Planning Area municipalities looking at the conformance requirements of the RMP cannot pick and choose what it will conform with, and that it has to accept all the requirements the Council adopts. He referred back to the statements made by Ms. Letts, in that municipal opt-in to the RMP has to be considered. Mr. Whitenack said he believed the Council should not forget the fact that it is creating a plan that Planning Area towns are not forced to opt into because it could mean the difference between a creating plan that is very successful, versus a plan that is mildly successful.

Mr. Salovaara noted he agreed with Ms. Pasquarelli's assertion that big improvements have been made since the last meeting to the documents. He noted that the beginning of the document refers to plant communities, and that the first sentence of rationale beneath it addresses natural communities possessing biodiversity, which in his understanding includes animals. The definition in the back of the paper refers to geological formations. Mr. Salovaara said his concern is over the tie-ins of all that is mandated in the Act, and suggested all the components fitting the definition of Significant Natural Areas be covered.

Mr. Weingart asked if the language structure Mr. Salovaara is referring to was consistent with the writing of the plan, and Mr. Borden noted that staff attempted in the documents being addresses to identify the extensive goals for each Preservation and Planning Area, on page 4 limited the goals that are applicable to the specific issues. The requirements of the Act staff put in bold the sections of resource assessment applicable to Significant Natural Areas.

Ms. Carluccio said she thought that item number one under Roman numeral I, should be expanded to be clearer that other categories of the resource assessment are listed such as endangered animals and geologic formations. She agreed it is the starting point noting the Heritage data and it could perhaps be clearer to also include flora and farm communities. Mr. Balzano said threatened and endangered species are addressed under another element of the plan.

Mr. Balzano asked the members to turn to item number 5, pre-conformance strategies which provides that technical guidelines will be developed for nominations of areas and allows the Council to review and approve nominations for inclusion as a Significant Natural Area. Mr. Salovaara asked him to clarify what pre-conformance strategies are as to timing. Mr. Balzano said there are additional details that will require additional definition before conformance and the Council will provide municipalities with additional technical guidance documents during the 3 to 6 months of pre-conformance. During the period between adoption of the draft and the receiving of public comments, the Council will be adjusting and making changes to provide additional specifics for local zoning and ordinances.

Mr. Balzano said the recommendation is to allow for open space and this is a required element of Plan Conformance for lands that are designated as Significant Natural Areas. There is a process for the Council to shape the parameters to add and eliminate sites for inclusion. Mr. Borden noted that the language was included specifically because of a prior resolution which the Council adopted in December 2005 was that there would be required elements of plan conformance and discretionary elements, and an adjustment and revision process to allow for local knowledge to inform the plan.

Mr. Balzano then turned to next steps beyond adoption of the plan the staff has identified 5 year resource protection and planning goals. The specific items are to maintain and update the inventory of Significant Natural Areas and develop management and stewardship strategies. Ms. Carluccio asked if the language could be revised to state maintain “and update.”

Mr. Balzano stated the next component of next steps addresses how the Council will facilitate and educate as to what the RMP is, and what it means for municipalities specifically regarding Significant Natural Areas. It also provides for the development of a program for municipal officials to help identify and propose nominations for Significant Natural Areas in the future.

Ms. Carluccio asked to refer back to page 2, about the ability of the Council to help towns in the pre-conformance period as to determining what compatible uses are. Mr. Balzano stated each plan would be reviewed and that the Council will inform towns that they must evaluate according to zone, by addressing the requirements for the protection and conservation of those sites. Essentially it is a framework for a municipality to achieve fulfillment of the standards.

Ms. Carluccio said she felt uncomfortable setting standards for towns, and Ms. Letts agreed. Ms. Carluccio added that she would like to provide uniformity as much as possible. Ms. Letts asked for an example of what a compatible use would be in a Significant Natural Area. Mr. Dillingham noted from a pragmatic perspective to articulate specific language to be put into the plan to address towns.

Mr. Weingart said in relation to what Mr. Salovaara asked about what would happen after January 1, 2007 and noted he didn't see anything in print that precludes any of the suggestions Mr. Dillingham made. Mr. Schrier said this did not appear to differ from any other process where you apply a standard and adopt it.

Mr. Salovaara suggested that as staff refines and defines Significant Natural Areas which are with plants and animals and that staff may want to go back and redefine other areas as well, rather than lumping all types under one term.

Mr. Alstede asked whether a uniform appeal process for property owners was already in place because there has to be a straightforward way for residents to receive a yes or no answer and asked whether the Council would be the mechanism to provide the answers. Mr. Borden said there will be multiple appeal processes for landowners. The Municipal Land Use Law provides for decisions all the way from macro to micro decisions. Mr. Borden added that this Council will approve the Significant Natural Areas inventory and additions to it. Landowners would be able to address the Council regarding the inventory. In addition, the Highlands Act is implemented at the planning board level, and appointed members of those boards would decide issues and landowners can raise issues during that process. In addition, the Council has review authority for planning board decisions that run contrary to the Act.

Mr. Weingart then turned the meeting to Ms. Christine Danis to discuss the policy document on Historical and Cultural Resources.

Historic and Cultural Resources:

Ms. Danis and Ms. Maryjude Haddock-Weiler pointed the members' attention to page 9, and the definition of Historic Resources. These are sites which are registered in the National Register of Historic Places.

Mr. Salovaara asked whether the list of over 500 historical and cultural places are provided in a list on the Council's website. Ms. Haddock-Weiler advised that it was. He then asked whether that list could be pared

down to include just the areas being affected by the Act and that it was important to do so before January 1st, otherwise he has concerns over the effects it will have. He thought that the Council should be more focused on inclusion of Highlands sites other than just what has been identified by the register.

Chairman Weingart said that the Council is using existing lists of sites, and Mr. Schrier added the Council is not creating sites. Ms. Danis replied that staff is identifying and sharing the knowledge it has. Mr. Dillingham noted that there are some defined lists and when the plan is drafted the Council should consider whether sites should be added or removed prior to conformance because it will have a list of affected areas.

Mr. Schrier noted he had concerns over the Council getting caught up in public comments, in that obscure little areas that someone says has fragments of civil war bullets on it could be sent for consideration as a Historic and Cultural Resource.

Ms. Danis offered clarification in that the State and federal lists of historic sites differ from the Highlands list because there are state and federal regulations which already apply to those areas. Mr. Balzano noted the attempts being made to avoid creating a system that interferes with other rules.

Mr. Whitenack asked whether the majority of the sites on the list were public areas. Ms. Haddock-Weiler noted that they were not, that the majority are privately owned areas which have obtained the designation either by virtue of their structure or history.

Ms. Letts noted that many historic sites are in disrepair and asked if the Council would provide for funding of grants to fix them. Ms. Haddock-Weiler and the Chairman agreed that decision was up to the Council, and that it can conduct more conversation on that topic.

Ms. Danis guided the members through the Historic and Cultural Resource policy document item by item, and explained all the elements and topics under each. She also provided for discussion and answers to the members' questions on the topics.

Ms. Carluccio asked about the protection of historic bridges and wanted to know whether decisions as to preservation of bridges would be required by the Council. Mr. Schrier noted that counties oversee the maintenance and design of bridges and advised that the County of Morris has been very accommodating and takes its recommendations from the County bridge engineer and great efforts toward preservation of the historic nature of bridges have been executed everywhere possible. He suggested including this provision, and suggested it would be an encouraging way to continue with the language staff has already used. Ms. Letts noted in addition to referencing the counties assistance toward preservation of bridges, it should also be noted that the State has also been active and has preserved two bridges in Parsippany. She said they incorporated historic elements into the new bridges and they are beautiful.

Ms. Carluccio suggested that staff use the words "recognize and maintain the nature" rather than the word "consider" Historic and Cultural Resources.

Mr. Salovaara stated that the Council is charged with identifying the areas of Historic and Cultural Resources, and believes it should attempt sooner than later to find out pre-January 1st whether the bridges everyone is discussing are on the list. He thought they ought to be, and should be, before January 1st. Mr. Schrier noted it may not be practical and suggested it could be done *post facto*. Mr. Salovaara stated the Council may not need to have the standards on January 1st, but it should identify them.

Ms. Danis noted that staff has not been limited in taking in information. Mr. Salovaara asked that the information be shared with the members. Mr. Balzano noted that there was a vast amount of information which will need to go through a deliberative process to determine validity. Mr. Salovaara stated his worry concerned things coming up more often than not which should be on the list.

Ms. Letts advised that the DOT has a process and philosophy called “context sensitive design” and that they are very committed when undertaking a public project that includes reviewing how well the project fits in with the surrounding areas. She noted that the State is already moving in that direction.

Mr. Dillingham said he would like the staff to stress to the places that are less enlightened than Morris County, and that other counties would benefit if the Council provides an outline to ensure that proper balancing occurs when designating Historic and Cultural Resources.

Ms. Danis outlined the conformance strategies and said that they provide the opportunity for the Council to assist towns and share the information it has received about their town as to Historic and Cultural Resources. She explained it provides them with the guidelines that could be used to evaluate and also provides them with what to expect.

Ms. Danis explained the historic preservation element will be required as an integral component of the municipal master plan for all Highlands municipalities. She referred to item number 7, which deals with the 5-year resource protection and planning goals, where the Council will continue to further the goals of the Act and continue to recognize Historic and Cultural Resource protection needs among public and private entities for resource protection strategies consistent with the RMP.

She advised there were 9 essential policy criteria in total which staff recommends the Council utilize in its consideration for Historic and Cultural sites. Ms. Carluccio asked whether pre-conformance strategies could be accomplished in house, and Ms. Danis replied she believed they could. Ms. Pasquarelli asked to what degree has staff communicated and received with SHPO. Ms. Haddock-Weiler said staff has received a lot of information, and that they have recognized there are many historic resources which are more local in nature than what they usually deal with, and have expressed their interest.

Mr. Alstede asked who was providing the transportation part of the plan. Mr. Balzano stated staff has a consultant at the DOT which is working with Ms. Danis. Mr. Weingart asked if the Council will see that element when it views the draft of the plan. Mr. Balzano noted that as components are prepared they will be shared with the Council. Mr. Weingart noted that he was certain there were members that would like to be involved and see those components soon.

Mr. Dillingham referred to the specially planned areas on page 9, and said that since the standard will apply to both Historic and Cultural Resources and specially planned areas, the Council should make a statement as to what the benchmark is for those areas. Mr. Salovaara stated he would like to see separation of the two directives as to specially planned areas to avoid conflating them with brownfield sites. Ms. Danis noted the term specially planned areas include areas such as mines and areas with contamination present.

Mr. Weingart asked that the members move on to the next policy document on Scenic Resources.

Mr. Schrier pointed to language contained on page four of the Historic and Cultural policy document which states that the Highlands Act requires the Council to periodically revise and update the RMP at least once every six years.

Scenic Resources:

Ms. Danis noted that the Act does not specifically define Scenic Areas, it mentions in Section 10 that they should be included in the RMP. Staff has devised an approach on to how to recognize them, and have listed the variety of sources that can provide definitions.

Ms. Carluccio asked if standards such as banning billboards in an area deemed scenic will be in the plan. Ms. Danis replied it would and that towns will keep them scenic through their ordinances. Ms. Carluccio noted that the Council won't necessarily have to identify all scenic areas, but is required to put the standard for treatment of them in place.

Mr. Salovaara stated that he thought the Council has a requirement to first identify the Scenic Areas before it can create standards without knowing what the areas are that it is setting standards for. Mr. Schrier noted there are many definitions that apply to what can be considered scenic. He suggested the Council could choose to create a Highlands definition for Scenic Resources, and use that as the standard. He added the Council has to develop the standards to apply to Scenic Resources.

Mr. Weingart said it was also his understanding that the Council is charged with setting standards for protection of Scenic Resources. He noted that this element will likely be the most subjective issue that the Council deals with. Ms. Danis replied that actually someone could say that the entire Highlands is a Scenic Resource. Mr. Borden noted that the DEP has already identified certain areas in the Preservation Area and that there may be a period of time that resources will be in jeopardy in the Planning Area.

Mr. Dillingham advised that the DOT is the biggest authorizer for placement of billboards on the State's highways, and agreed that the Council should attempt to define Scenic Resources. He offered for example that the Council consider protecting the views from the Appalachian Trail and start a list. He believed it should also ask that State agencies be brought in at the point where the Council defines Scenic Resources and sets standards. Mr. Alstede said that what looks pretty is sort of a separate issue and questioned whether the Council would be so specific for example, as to require all people have red stucco roofs. He added that the concept of protecting Scenic Resources goes beyond billboards.

Ms. Letts agreed and noted that the Council might have some legal problems with this definition. She offered the example if a municipality says it has a scenic vista and residents are denied doing something to their homes because it has been deemed as a scenic area, when they challenge it and go to court, the judge could very possibly then ask, "what is a scenic vista?" Mr. Schrier said whatever the Council decides upon can define what a Scenic Resource is in the Highlands. Ms. Carluccio asked what the staff has proposed as the definition for a scenic vista since there is no definition in the Act. Mr. Salovaara said what he would like are examples. Ms. Carluccio agreed with Mr. Dillingham and agreed it would be good to start a list.

Mr. Whitenack made a point as to how far the Council should be setting the boundaries of a scenic vista and viewsheds because if the boundaries of the view extend into neighboring towns, then problems could arise as to the neighboring being affected in its ability to make changes because they would adversely affect the viewshed of a neighboring town. Mr. Borden pointed to page 7, regarding where lands that are publicly owned he suggested the Council could take the approach from a state level as a starting point.

Mr. Schrier shared a story about when he lived in Union City. He lived on the 13th floor of a white brick apartment building with an underground garage which overlooked the helix of the Lincoln tunnel. The 13th floor of the apartment building was about 250 feet above sea level, and Mr. Schrier said on a clear day the view was breathtaking and far reaching. He believed that could have been considered a scenic vista, and added that it

was a known fact that selling points for many people are the great views from a living room window. He mentioned that there were views in the Highlands that were similar in nature and evoke that human appreciation factor.

Mr. Dillingham said a possible starting point in defining Scenic Resources could also be those areas where there is a large amount of the public who would use the area and that the Council should keep in mind that actions have been taken to protect the view of the helix of Lincoln tunnel of Manhattan which was considered to be a scenic resource under the State's coastal management policies. Mr. Weingart noted that he had been involved in that matter and the State had prevailed. Mr. Whitenack asked if there wasn't a case where the National Trust had set a precedent with regard to a battle field, and Ms. Pasquarelli replied that it was in Manassas, Virginia and they were successful.

DINNER BREAK:

At 7:05 p.m. Chairman Weingart called for a half hour break and requested that the meeting reconvene at 7:30 p.m. At 7:45 p.m., Chairman Weingart called the meeting back to order. Mr. Di Pirro then introduced Mr. Ross MacDonald and Mr. Anthony Cortese to present the Baseline Economic Indicators policy document.

Financial Component:

Mr. Ross MacDonald noted that the Governor made a statement that the economics within the RMP could work out better than they otherwise would which has been proven throughout the Pinelands model which John Stokes outlined when he came and made his presentation to the Council. Mr. MacDonald agreed that the economic analyses to date do reflect that the opportunity to improve exists.

Mr. MacDonald said that the three financial components of the plan consist of baseline economic indicators, the cash flow timetable and the fiscal impact analysis as it relates to build out. He advised that the baseline economic indicators comprise of 8 categories, all detailed under Section I of the policy document. The policy establishes regional values and has been on the website for over a month. The traditional indicators focus on population, unemployment, as well as examining particular land value indicators that have been studied.

Mr. Salovaara noted that transactions are listed and asked whether that representation was relative to trends going forward. Mr. MacDonald said staff has received SR1A reports for each of the years 2001 through 2005, which are county reports of all land transactions and that its has OPRA requested the Division of Taxation for their current iteration as well and is awaiting that data. Mr. MacDonald noted that for purposes of this demonstration, 2004 and 2005 have been highlighted to determine what initial changes in transactions occurred related to statewide trends since the enactment of the Act.

Mr. Salovaara asked that the 2001 through 2003 data also be examined for categories of trends. Mr. MacDonald agreed that that could also be added into the report for the plan, and that going forward 2006 data will also be added.

Mr. Dillingham said he noticed that the indicators seem traditional, and wondered how ecosystem services provided by land conservation requirements are reflected by public investments and infrastructure costs. He also asked how to factor in dealing with avoiding incurring costs as the plan prevents flooding and moves ahead. Mr. MacDonald said those representations will be captured in the Fiscal Impact Analysis portion of the Financial Component which covers infrastructure impacts as well as quality of life issues. He noted it is a difficult issue to apply metrics to, but Rutgers is performing these types of studies under contract.

Mr. MacDonald noted there is an appendix paper provided which examines the economic benefits of open space preservation and how they affect property values, flood control measures, and quality of life. That will be a presentation given at a subsequent demonstration.

Mr. Alstede asked if there was a mechanism to measure economic activity within the Highlands region, such as ecotourism, and what that means for the State in terms of sales tax revenue for example. Mr. MacDonald said he has spoken with Eric Stiles of the Audubon Society who has provided a piece that examines how to calculate the true value of ecotourism. One program for recommendation to the Council will be an ecotourism program which will review exactly what metrics could be applied to existing data.

Mr. Weingart asked that Mr. MacDonald proceed with going through all the policies and then address individual questions on them. Mr. MacDonald advised the second portion of the policy would develop a program to provide monitoring for municipal tracking and provide those update reports to the Council. It outlines how the indicators relate to northern New Jersey as a whole, and also statewide averages. He mentioned that the municipal economic tracking program does not necessarily mean that the onus is on towns to provide the data, it signifies that the Council will be examining municipal economic data sets, and then municipalities will review and confirm to further improve the figures.

Mr. MacDonald noted that municipalities will be able to review the economic data about them which will be in the master plan and provide comments for the Council's consideration. The next piece of the tracking program would be the assistance given to municipalities for participation in the program, including forms and instructions for them to provide clear information to the Council on an ongoing basis. Mr. MacDonald said the Council is aggregating 88 towns with 8 different indicators and subsets of those indicators. Ms. Letts asked that the Council be careful not to burden the towns as they attempt to cut property taxes.

Mr. MacDonald noted that the 5-year goal would be to provide a full report illustrating the comparative analysis between the indicators with the expectation that statewide changes will be visible. Ms. Pasquarelli asked if Mr. MacDonald meant that up until the 5 year point the Council should not draw conclusions on the information since it is not conclusive, and Mr. MacDonald replied that was correct since the analysis is an ongoing process.

Mr. Salovaara said he thought the transaction data should be examined to determine how much farmland has decreased as compared with non-farmland in preservation and planning areas. He asked that the obligations of Section 11 be addressed and that the costs for places that have been affected be targeted for funds to compensate those areas. He thought that he didn't believe it should be done as a 5 year goal. Mr. MacDonald said that the transactions element encompasses a great deal of information such as the number of transactions as a whole, how the dynamic of the region reacts, and comparing what price properties have sold for versus the assessment value.

Mr. MacDonald said the tool for the Council and constituents of municipalities to address planning. Mr. Cortese noted that the data the staff has on SR1 transaction data measures sales transactions by property class, and also by block and lot. He noted that some towns have sufficient data to draw conclusions, other towns have very limited data, so it can be very difficult to draw broad decisions as to how land has been affected with such limited amounts of transaction data. Mr. Cortese said that it is very important for the Council to continue to track the SR1 data. Ms. Pasquarelli noted she was happy to hear Mr. Cortese say that it would not be desirable for the Council to make broad conclusions based on limited amounts of information. She also stated that attention should be given to the point he mentioned regarding sale prices relative to assessed values, because so much of vacant properties in the region are farmland assessed, and the sale price would have been much higher than the assessed value. Ms. Letts also noted that is not necessarily the equalized value.

Mr. MacDonald said that the instances Ms. Pasquarelli mentions, that there is a wealth of data of acquisitions from Green Acres and SADC where many transactions from 1990 to the present, approximately 330 properties in Green Acres of which about 200 are farmland, and as those are equalized through the consumer price index to adjust for inflation, a clearer idea of what per acre value was. Mr. Weingart said that the Council is faced with individual land sales as related to the Highlands Act, and said noted it is anxious to learn when it can predict that it will have those types of specific figures.

Ms. Letts said that she suggests the Council collect data related to commercial properties in addition to residential because as towns go through reevaluation there may be a large shift in the tax amounts. She thought it would not be so much due to the changes in properties but rather because residential properties have increased in values when compared to commercial properties. She asked for a separate piece illustrating the shifts from residential and commercial property values to have more valid conclusions as to residential taxes. Mr. MacDonald noted that in equalized property values and transactions it is broken down in residential, commercial, industrial, farmland and other categories. The changes do become clearer when the numbers are examined as to changes from back as far as 1994 as to changes from residential to farmland.

Mr. MacDonald said the next item for coordination and consistency with require agreements with Department of the Treasury, Division of Taxation and Department of Community Affairs to allow the Council to receive data in a time saving manner. He explained that at the present time, staff has been asked by Taxation to go through a formal record act request process to obtain this data and it has taken time. Therefore, agreements will facilitate coordination changes to having process and allow the Council to avoid delays in receiving SR1 data from the Division of Taxation. Mr. Di Pirro stated that he was confident that better coordination would be achieved.

Mr. MacDonald said the next item addresses assisting County officials and municipalities to track and report regional economic indicators through the municipal economic tracking program. He noted that the staff will address the revisions that have been requested by the members. Mr. Alstede asked how much was spent to obtain the data and Mr. MacDonald replied that at this point, it cost \$10,000 to obtain 73 data sets, and that the more specific information needed by the Governor is continuing to be developed through the cash flow time table which assesses planning grants and costs to municipalities to change their regional master plans and update zoning as well as the lifestyle components.

Mr. Weingart asked if there were any more questions or comments and since there were none, he turned to the next policy issue for consideration. Mr. Di Pirro thanked Mr. MacDonald and Mr. Cortese and advised that Mr. Balzano and Ms. Erin Lynam would be demonstration the Wastewater Treatment Infrastructure policy document.

Wastewater Treatment Infrastructure:

Ms. Pasquarelli asked that prior to going forward with the next policy, that Mr. Balzano clarify the three categories of lands which staff has created related to Wastewater Treatment Infrastructure. Mr. Balzano noted the first is Regional Protection Area, which is a high resource value with high constraints on development, the second is Regional Conservation, and the third is Regional Development.

Mr. Balzano said the first introduction to the smart growth component of the RMP which examines how to identify where development activities are appropriate and establish appropriate capacity limitations on the growth to ensure we remain within the existing capacity limitations that land use development opportunities are consistent with those limitations. He noted this has been an extraordinarily difficult task when compiling and

checking information as to where sewer services are and what areas are currently served by sewer and their appropriate capacity limits are. It is an ongoing process and the staff will report back to the Council as it continues to develop the data.

Generally the policies relate to identifying the limitations and identifying areas that are most suited to provide sewer service and offer the best growth opportunities. Mr. Balzano noted that policy number 1 is Highlands Domestic Sewer Facilities which are a subset of the many wastewater treatment facilities in the region. They exclude facilities that are designed to accommodate individual projects and as such they do not have the capacity or approvals necessary to serve anything but that particular project. Staff has selected the treatment facilities in the region which are designed and constructed with the purpose of providing domestic wastewater treatment to municipalities and larger development areas. These are called Highlands Domestic Sewer Facilities which can accommodate future growth.

Existing Areas Served are defined within the plan as existing areas served based on the best information available as to where we are sure the pipes are in the ground. They are very important because in the context of the RMP they identify existing areas of concentrated growth. Mr. Balzano advised that there is a comprehensive inventory of all wastewater discharge facilities both industrial and domestic, and the subset has been focused on as the Highlands Domestic Sewer Facilities which include both ground and surface water discharges which range from facilities that have 20,000 gallons capacity upwards of 12 million gallons of capacity.

Mr. Schrier said he would like to know more about where the sewer services have begun and are urgently needed in marsh developments around lakes and whether there was a provision in what the Council is doing to accommodate emergency situations. Mr. Balzano said one recommendation is areas that should be served based upon the limitations of capacity. One of the concerns is to address priorities where there are a prevalence of failing septic systems and public health concerns.

During conformance there is a need to constantly update and refine this data base since real estate development is a moving target and as the plan continues to be developed, commitments of sewer capacity change daily. Maintenance of the data base is crucial because they will directly affect land use decisions on capacity estimates.

Mr. Balzano said the staff is providing for inclusion in the RMP a conservative estimate of capacity – the amount of wastewater treatment capacity currently available when excluding existing uses from what is called permitted flows. For example when analyzing and determining water supplies the driest periods of time are used for consideration, and wastewater is the reverse of that where the highest flows of water are considered. These are the instances when plans exceed their capacity and that is the staff recommendation.

Mr. Balzano said ongoing discussions with the DEP center on instances where permit capacity will not be achieved by a facility even if they have a permit that allows for certain flows, there are limitations on the quality of the receiving water. He noted Total Maximum Daily Load (TMDL) is applied to a stream, which puts additional treatment requirements on a facility and if it doesn't have the capacity to meet that standard they may not be able to achieve their permitted flow. There are issues and facilities which are still being reviewed that cannot achieve full available capacity.

Ms. Pasquarelli asked how far back the maximum 3 month average period Mr. Balzano mentioned goes. He replied that it was between the period of 2002 to 2004. Staff felt this was a reasonable estimate of what a peak flow would look like, not the absolute peak. The staff will promote to the Council a concept of "fix-it first" that the best place to invest public dollars for infrastructure repair is to reduce what is known as inflow and

infiltration. This will substantially cut down on capacity and as a result limit growth potential where growth could otherwise be accommodated.

Ms. Pasquarelli asked where actual flows are accounted for. Mr. Balzano said that issue is very difficult and not necessarily publicly available in many instances and is almost impossible to accurately account for that without requiring submissions as part of an approval process. What staff is proposing in order to account for allocations is a municipality or authority must submit a full accounting of all their outstanding commitments or allocations so that the Council has a more thorough understanding of not only what has been contractually obligation but also to who. Mr. Balzano said the plan is being based on what is available and essentially establishing what is called a rebuttable presumption opportunity where a municipality can correct whether available capacity information is accurate. Through municipal conformance the Council can review the extent of service areas recommended in the plan to make appropriate adjustments.

Ms. Letts asked how many wastewater treatment facilities are in the Highlands. Mr. Balzano replied that there are 41 and that staff has requested that they provide the Council with information on what their obligations are. He said a utility authority provides service to multiple municipalities and contracts out capacity to the municipalities. The municipalities then allocate resources or available capacity to individual property owners. Generally, he emphasized that there is not a good record of what those outstanding allocations are, and there is no consistent source of information to document them, but that the staff has begun documenting as to how much and where, but it remains incomplete.

Mr. Balzano said that not all treatment facilities are at capacity and that would be where the Council could determine that growth can occur using smart growth principles consistent with the plan. He offered an example where multiple towns are served by the same facility, and the information is received on how flows are committed, the recommendation would be to distribute the flow based upon the area envisioned to be served by that authority. In distributing it, the municipality would be allocated a pro rata share. There are provisions which recognize that there are contractual obligations tied to development approvals. Some towns do not have a good understanding of what their own outstanding obligations are. This will require a long deliberate due diligence process on the part of the staff and Council to acquire the necessary documents from the municipality and ensure that we do not create a lose-lose situation for a municipality where they can't comply due to outstanding legal obligations, while making sure that those legal obligations in committing to a project are reasonably achievable.

Ms. Carluccio asked about the fact that DEP does not enforce the flow limits and allow them to be violated. Mr. Balzano said since the Council is not the regulatory body charged with monitoring conformance with discharge permits for sewage treatment plants, it should work to ensure that the area intended to be served and the zoning and building development potential within that area is consistent with the capacity. If this works well, there will not be those situations. Ms. Carluccio said she worries that the un-enforced violations potentially cause the calculations being made to be inaccurate. Mr. Balzano said it would not, because staff is examining what the volume of wastewater a facility is designed to treat and what their current discharges are. It is comparing what is allowed to be done with what they are doing.

Mr. Balzano said one policy recommendation is to utilize and plan to allow for up to 20% of the available capacity to go toward redevelopment activities and encourage opportunities for sufficient brownfield redevelopment rather than green fields development. Staff notes it is consistent with the requirements of the Act and consistent with smart growth goals in the Act to encourage redevelopment where the opportunities exist. It will ensure that local planning allows for opportunities as a priority to redevelop areas.

Mr. Salovaara wants clarification as to which would come first – identifying redevelopment areas and then applying the available capacity limits, or will they be identified as a result of where capacity limits allow for redevelopment. Mr. Balzano believes the intent is to encourage municipalities to look for redevelopment opportunities which provide for mixed uses and more efficient use of existing developed lands as a method of promoting economic growth locally without requiring consumption of additional land base. Mr. Salovaara said he thought that the Act demands that the Council make the redevelopment assessment itself and then drive the plan on that basis. Mr. Balzano said staff would examine that.

Mr. Weingart stated his understanding is that the Council would reserve up to 20% of whatever capacity is available for redevelopment. Mr. Balzano said that 20% of the existing use would be for redevelopment priority. Mr. Balzano said the driving principle is a policy determination in which the RMP will encourage brownfields and grayfields redevelopment over greenfields development, and encourage more efficient use of previously developed land rather than encourage development on land that has not been previously developed. Mr. Dillingham asked if that these statements could be written down as policy, and Mr. Balzano said yes. Mr. Dillingham said he agreed that it was probably indicated by the Act to describe different types of development and growth, and capitalize that regional growth is a type that uses currently undeveloped land, and redevelopment is adaptive re-use of a site and changes in use.

Ms. Pasquarelli agreed that the Council should be very precise when using the term growth. Mr. Schrier added that the definition identifying differences should be throughout the entire RMP.

Mr. Whitenack asked that if the older infrastructure areas are the plants that are at capacity and the Council needs to find ways to initiate redevelopment methods. Mr. Balzano agreed that was correct.

Ms. Pasquarelli asked how many of the 41 facilities are new. Mr. Balzano noted that they are all well established developed areas over 10 years old. Ms. Letts said they were built when the federal government was providing funds to towns to build them. Mr. Balzano said many of them have a long history.

Mr. Weingart said he agreed with Mr. Dillingham's point in that he believes that it is not as clear as it could be as written as compared to Mr. Balzano's explanations. Mr. Balzano said the language will be refined to distinguish between growth within a specially planned area that encourages redevelopment, from growth within a regional growth area that includes greenfields or development on undeveloped areas.

Mr. Dillingham said he would also like it specifically noted that the Council's policy is to promote redevelopment or efficient use in established communities, so it is clear that is the policy goal within structuring the sewer policies and range decisions around that. Mr. Borden pointed to page 8 and asked to examine the last bullet to determine whether that language is what he is referring to.

Ms. Letts asked Mr. Balzano if a facility has 40% capacity by virtue of calculations and data, 20% will be held for redevelopment, you have 20% left. She then said according to the towns current zoning, they are built out, will the Council then declare the remaining 20% as an area for increased growth beyond the existing zoning. Mr. Balzano said that if there is existing land that is not constrained and otherwise appropriate for development the Council may decide to recommend expanding a service area to capture that additional area. The policy of the Council has previously been that there are no mandatory growth provisions, so anything that stimulating growth would be a discretionary element of plan conformance. Ms. Letts said inasmuch as the Council is required to recommend some growth areas, these areas would qualify from that standpoint of capacity, without being mandated.

Ms. Carluccio said that the technical paper addresses wastewater treatment utility infrastructure which has a great deal of information, and lists of various utilities and their capacities.

Mr. Balzano pointed to item 3 in terms of policy recommendation another objective to achieve is to ensure that there is sufficient capacity to accommodate TDR receiving areas. The density would be at a level that allows a town to be a receiving area by prioritizing capacity to those receiving areas.

Mr. Balzano said that item 4 Highlands Wastewater Sewer Service Areas is the acknowledgment in the plan which will recommend what based upon areas that are deemed appropriate for development or redevelopment within the limitations of capacity that should be served by sewer which addresses the issue Ms. Letts mentioned – where there is an area that doesn't have sewer but there is excess capacity, and it has all the indications of being appropriate for growth. The plan would recommend that area to be served at the discretion of the municipality. These are all the areas that the plan determines to be appropriate to be served by sewer and will assist the Council in its ability to inform a town where they should plan to provide sewer within their capacity.

Mr. Dillingham said when examining sewer service areas in the present, they are pipes in the ground plus future expansion areas. He would like to collapse some of the categories. Mr. Balzano asked the members to envision a service area that comes out of the plan that is a proposed service area, there are three elements: one is the existing area served, the other is the area that can be and should be served within existing capacity, and the third would be areas that are otherwise appropriate for development but may exceed the available capacity so they would be featured. Mr. Dillingham said then when viewing a map there will be three different color categories on the map, or would there be one category. Mr. Balzano replied that there would be three.

Mr. Balzano said item number 5 touches on Mr. Dillingham's point where in some cases there is not sufficient capacity but available lands otherwise appropriate for development. Staff feels that it would be appropriate to identify those areas in order to determine if there should be more capacity or if it can be expanded, where it should go, and what is the projected capacity demand of that area.

Mr. Whitenack asked if there is any town or authority which has just completed an expansion that we could examine. Mr. Balzano said some facilities who have within their delineated service area that do not generate in build out conditions that do not use all available capacity. Mr. Whitenack asked if can be determined whether they were not using all available by a little, or by a lot. Mr. Balzano said it varies and in cases where it is by a lot, there are unique circumstances. One has an area that a lot of failing septic systems in lake communities, so there is a dedicated portion which is being held in reserve to deal with that and we want to encourage that.

Ms. Carluccio asked about the areas where new growth might occur, will the Council look at assimilative capacity of streams, or TMDLs and water quality conditions, upstream conditions especially if it is out of state. What will the Council do as to value assessments before it decides whether an area could be served. Mr. Balzano said staff is looking at the issues regarding use of the available capacity and whether portions need to be dedicated for dealing with public health concerns. Also, it is examining limitations of the receiving water that may prevent existing facilities from meeting its permit flow. Third, staff is examining indicators that suggest whether expansion of capacity is feasible.

Mr. Balzano offered the example where an existing wastewater facility discharges into a C1 stream there is a relative certainty that there will never be a future expansion of capacity that economically viable. If there is a TMDL attributed to the receiving waterway, there is a reasonable certainty that expansion will not be economically feasible and there is a concern whether or not they will ever be able to achieve permitted flow. If they discharge to a very large water body that does not have existing impairments and they are treating at a high level of quality there might be ability to expand. This examination is still being made.

Ms. Carluccio wants to use caution identifying areas until that work is complete. Ms. Letts agreed. Mr. Balzano noted that to some extent the Council will progress to a point of completion at a time when the plan has to be done. If there are data gaps and uncertainties, staff can identify those and the Council will decide whether enough information exists to proceed. Mr. Balzano said the Council might “red flag” a facility where insufficient information is available to make a decision with certainty and zero out its available capacity.

Ms. Pasquarelli asked if there are any of the 41 facilities which are pending expansion permits. Mr. Balzano said that the analysis has been limited to existing capacity at this point, not future expansions and cannot say for certain but that he does not believe there are proposals to expand capacity. One facility is attempting to get relief from its flow limits because it is meeting its effluent standards but not expand the facility, just receive modification to its permits.

Mr. Dillingham thought the Council might bear in mind that servicing failed septic systems in high concentrations like around Lake Hopatcong is a resource protection policy as well, if not more so than a growth policy. His concern is over allowing expansions to go forward how will the Council solve the problem of failing septic. Ms. Letts believed protecting waterways should have a higher priority than redevelopment.

Mr. Balzano pointed to item 5 which is the acknowledgement that there may be areas appropriate for redevelopment and/or growth based upon their land use characteristics but for which there is not sufficient capacity and will attempt to the extent possible to identify those areas in the plan. This is the third tier within a service area.

Mr. Balzano noted that item 6 speaks to informing the Land Use Capability Map within the regional protection zone, there is a general recognition that there would be a prohibition on expansion of wastewater treatment collection systems beyond existing areas served. This is a requirement under the preservation area in the Act and it also acknowledges that there will be certain exceptions. Most notably, is any project that has existing approvals and is exempt from the Act. Those will have the ability to accommodate moving forward.

Ms. Carluccio asked if those exemptions fall within the specially planned area category. Mr. Balzano replied that was not correct, and that specially planned areas are redevelopment areas which were previously developed and can accommodate redevelopment. Ms. Carluccio said that it was not clear then why they are included in the regional protection zone. He replied that within the preservation area there is an ability to provide relief from strict adherence to the standards for areas that are appropriate for redevelopment and treats them in limiting their definition to include brownfields or sites and areas that have greater than 70% impervious area. Within some municipalities, particularly those that are wholly in the preservation area, they have the ability to seek redevelopment and the staff believes they should be accommodated consistent with the resource protection goals those redevelopment opportunities where they exist. He said that the members keep in mind that redevelopment areas are greater than 70% impervious.

Ms. Carluccio asked about all the other layers of elements and components that define regional protection zone, will there actually be many specially planned areas. He replied there will be. She then asked why they are termed specially planned areas and not redevelopment zones since they all have 70% impervious cover.

Mr. Balzano said that staff is attempting to separate from the term or the perception of the term redevelopment which gives the impression of eminent domain rights, and that is not what this is intended to be. These are areas that the Council identifies as being appropriate to accommodate redevelopment. Mr. Schrier said that he believes this direction was exactly what the Council should be doing in creating its own lexicon for the Highlands and it is Highlands specific language.

Mr. Balzano noted there is great complexity in what the Council and staff is doing and there will also be complexities in the master plan and said that part of what Mr. Dillingham mentioned about nurturing a change in perception and action on uses of land requires understanding. If we can create a nomenclature and consistently use and reinforce that nomenclature we can hopefully encourage the change in attitudes.

Mr. Balzano said item number 7 addresses within the regional conservation zone, the middle ground, there are limited opportunities for expansion of wastewater collection systems within and immediately adjacent to existing areas served within the rural conservation zone. He noted with particularity those areas necessary to serve specially planned areas or as may be necessary to address an imminent public health concern.

Mr. Balzano said there is also a policy recommendation that the staff is making wherein a land owner is interested in developing its property in a way that allows for at least 80% of the land area to be maintained as open space by proposing a development that is of higher density. If the town is receptive to that proposal there would be a provision to allow for the expansion of wastewater to that site, providing that it is adjacent to the area served and at least 80% of the project would be set aside. He said there are a variety of methods to preserve resources that do not require public fund expenditure. One example is to encourage more efficient use of land and site design practices that allow the most sensitive resources on the site -- be it farm productive agricultural soils, Highlands open water protection area, critical habitat for endangered species -- those would be set aside under conservation easements in exchange for allowing that developable portion of the site to be built at a higher density or at a comparable overall density to what would have been achieved through conventional design. Ms. Letts referenced cluster development.

Mr. Balzano said this would provide opportunities for balancing where appropriate to accommodate growth but still achieve the resource protection goals without requiring public expenditures. Ms. Pasquarelli said the Council thereby is providing a sort of bonus in exchange for most efficient land use, and Mr. Balzano replied that was correct.

Mr. Dillingham said although he does not disagree with this, he has some concerns. The Act states that the areas the Council needs to identify as appropriate for future growth do not have characteristics which Mr. Balzano identified as being those that define the conservation area. He said that undeveloped areas in the Planning Area which are not significantly constrained are not prime agricultural areas and are located near or adjacent to existing development and infrastructure. He said that policy may reflect the third criteria which seems to be contrary to the first two, in that the Council should not be identifying future growth areas. Sewers cost a great deal of funding, and there would have to be a fairly high intensity of use in order to justify doing so. He questioned whether that is appropriate in the Regional Conservation Area.

Mr. Balzano said he believes that what is intended to accomplish is identify only those parcels immediately adjacent to an existing area served. He does not believe it is about areas of significant extension of a sewer line. Ms. Pasquarelli agreed the language needs to state as such. Mr. Balzano said it focuses on portions of parcels that can accommodate a degree of development within conservation zones without requiring public investment of funds for acquisition and the bonus is access to sewer. This is a way of protecting agricultural resources that would otherwise be developed at low density housing.

Mr. Dillingham wants careful examination to ensure that this policy does not run contrary to the specific direction of the Act. He thinks it remains to be seen whether building small villages within farmland actually preserves the farmland or whether it leads to conflicts.

Mr. Schrier asked if Mr. Borden could point to the specific portion of the Act, and Mr. Borden said the focus was on page 9 of the policy document under Smart Growth section C, undeveloped areas in the Planning Area which are not significantly constrained which are near or adjacent to existing development infrastructure that could be developed. Mr. Borden also noted that this discussion was in the context of the regional conservation zone, not the protection zone. This portion of the Act deals with resources which are in the medium zone.

Mr. Dillingham believes that the policy directive of the Act dictates that the smart growth element identify areas that are appropriate for future growth, and so the question is how many resources exist and how much agricultural land exists. Mr. Balzano noted that there will be situations within the regional conservation zone with permissible development densities within sustainable limits. The Council will have to decide to what extent in those situations in the conservation zone where to encourage clustering to minimize the amount of land consumed to accommodate that same level of development.

Mr. Balzano said the difficulty within the conservation zone, is that clustering will only be feasible where there is access to wastewater treatment. Mr. Dillingham would like to see some estimate of how intensive a development would have to be in order to justify giving sewers to them. He suggested that in establishing the policy, someone leap-frogs out, and says they want to cluster 50 houses on their 100 acres and run a sewer line, he questioned whether this was contrary to what the Act asks the Council to do.

Mr. Balzano said this provision it would result in 80% of the site being set aside in the conservation easement to protect the resources on the site. He added that this policy does not affect development of the plan and it could be tabled for now and revisit when more identification information as to where the areas occur. Ms. Carluccio asked whether everyone agrees that the language “near or adjacent to” should be included. Mr. Balzano said there will be additional detailed policy recommendations in the course of developing the RMP. Ms. Letts commented as to any cluster recommendations made by the Council must incorporate the remaining open space which exists after clustering, and that it be permanently preserved and recorded.

Mr. Balzano pointed to item 8, which addresses the regional development zone, which is the area that accommodates growth and the intent is to afford the highest priority for allocation of existing wastewater treatment capacity to specially planned areas or regional growth areas that can accommodate TDR receiving zones. The goal is to encourage through policy, allocation of available wastewater capacity those municipalities that voluntarily adopt the TDR receiving ordinance.

Mr. Balzano said that these apply to all areas of the Highlands where the elements provide protection to well head areas, groundwater wells that supply drinking water, in order to prevent contamination of those supplies. Secondly, they prohibit expansion of future service areas within the critical natural resource areas. Within all three zones, there will be critical resource areas. Mr. Balzano noted he would add a third bullet that requires dedication of available capacity to address public health concerns including failing septic systems. Mr. Dillingham asked that within number 9 that the list of critical resource areas, that prime agricultural areas should be included in the list of natural resource areas.

Mr. Balzano pointed to item 10 for smart design standards which are site design standards that apply within all zones, require use of water conservation devices for any redevelopment or development activity including renovations to existing single family residences, which is intended to reduce demands from existing uses on wastewater capacity as well as reduce demand of water consumption on water supply. Secondly, incorporate standards for mandatory inspection and there should be a statement added upon transfer of ownership of a new or existing single family residences or commercial industrial development – intended to address infiltration and inflow problems. This would be within the context of a Certificate of Occupancy.

Ms. Letts asked if it could be included within the section “green building design standards.” Mr. Balzano that at a subsequent meeting there will be a whole section on smart design standards which will include low impact development and green building.

Ms. Carluccio suggested that where water conservation is mentioned, it should be added to say water reuse and recycling. She noted the second bullet might also include provision for commercial flows to prevent pollution problem at receiving plants which are not capable of handling the pollution.

Mr. Schrier said the opening paragraph says encourage appropriate conservation design throughout the region, but if the intention is to require it, then it should state that. Mr. Balzano stated the smart design standards can be either mandatory or discretionary and there are distinctions between the two.

Mr. Balzano said there will be opportunities to include specific the language for the plan. The next item would be the establishment of requirements for individual on-site wastewater disposal systems. The staff is still examining how to identify all the failing systems with public health concerns. Ms. Carluccio suggested that maintenance should be inserted before inspection since maintenance programs would require the inspections.

Mr. Balzano said item 11 on regional growth standards requires wastewater management plans and amendments be substantially consistent. Mr. Weingart questioned why the term “substantially consistent” and Mr. Balzano replied that it is recognized that during conformance, adjustments will be made as plans are reviewed and approved. He said if the Council desires the word substantially could be removed. Mr. Dillingham thought the word flexibility may need to be defined. Mr. Alstede said he feels there needs to be a protection for private property rights because the policy could be overly intrusive.

Mr. Balzano next explained bullet number two under item 11 which addresses areas with available capacity that should be served by sewer, then a municipality should not zone the area that does not require sewer. The Council would establish a minimum density within the areas that should be served for projects connected to sewer, both residential and commercial.

Ms. Pasquarelli said this particular language should be focused on more extensively as to densities of units per acre. Mr. Balzano said that what the Council would establish is a policy which establishes a minimum density within areas served by sewer. Ms. Letts didn’t believe that this was necessary. Ms. Carluccio said what it achieves is, that if you want to have a sewer, you cannot use up huge portions of land to go to that sewer. Mr. Balzano said this provides guidance to towns, and Ms. Letts thought that if towns won’t buy into conformance, they will not do what we are requiring and that continues to be her concern.

Mr. Balzano said the recommendations are designed to develop policies for the Council that best address the requirements and goals of the Act, and then enable the staff to advance the goals. If the staff focuses too intently on what a town will or will not accept, a major concern is that things become very subjective and then the question of compromising the goals and objectives of the Act becomes the concern.

Mr. Balzano reminded that in the months of pre-conformance these issues will be addressed as they arise. Ms. Pasquarelli noted that she does not agree with this bullet point and would like more discussion.

As to pre-conformance, Mr. Balzano noted that the Council needs to submit its wastewater service map to the DEP to encourage permits that are consistent with the goal, develop guidelines to incorporate appropriate Highlands Preservation Area exemptions or prior approved projects into Highlands wastewater service area map. This is the reconciliation of allocations, contractual obligations and exempt or prior approved projects.

Mr. Balzano said the staff recommends that the Council seek gubernatorial approvals to be the designated water quality planning agency in the Highlands region, where the authority would be given to approve and develop wastewater management.

Mr. Balzano advised that item 13 regarding conformance, provides requirements that municipalities include wastewater management plans that conforms with both the DEP rules and are consistent with the RMP. Ms. Pasquarelli asked that further discussion occur at a later time about when conformance will be achieved. Such as, will it be when towns submit a WQMP application. Mr. Balzano said that when towns submit a plan that the Council deems to be consistent with the RMP, they can proceed to the DEP.

As to 5 year goals, Mr. Balzano stated this addresses the coordination efforts with DEP and wastewater utility authorities to facilitate studies and models on dealing with TMDLs. He said the language needs further work, but one five year goal is to be active in coordinating efforts and evaluating effects of wastewater discharges on water quality specific to TMDLs.

Ms. Carluccio asked that the language consider the idea that the models and information gathered from the first and second bullets, be used to inform wastewater plans to inform the entire revisions to WQMPs as part of the iterative process. Ms. Pasquarelli noted that the analysis should also be discussed further at some point. Mr. Balzano noted that the Council should be coordinating with and be involved with TMDLs.

Mr. Balzano noted item number 15 dealing with consistency considerations are efforts to coordinate existing regulatory programs and there are provisions for tracking discharges more effectively on a regular basis in coordination with the DEP, monitoring the effects on water quality on the region as a result of wastewater discharges in coordination with DEP and USGS, coordinating regulatory programs with DEP to ensure consistency with the RMP and develop technical guidance with the DEP to promote water conservation measures throughout the region inside and outside the Highlands.

Ms. Carluccio asked if the Council should also develop as part of coordination and consistency, general references to enforcement by DEP. Since we are identifying water quality monitoring, there are issues that will arise and we should have a mechanism that will make it easy to follow up on. Mr. Borden noted that item 16 refers to that.

Mr. Weingart noted that the Local Participation Committee which Ms. Letts chairs, met before this meeting and he believes that point was touched on. There exists a threshold question that will be when the draft plan is released, as to how long the comment period should be, because that will determine when the public hearings are held, it will determine how the Council will be able to address the comments and adopt them.

ADJOURN:

Mr. Alstede motioned to adjourn, Mr. Whitenack seconded, all were in favor, and the meeting adjourned at 10:00 p.m.