

MINUTES

NEW JERSEY HIGHLANDS COUNCIL MEETING OF SEPTEMBER 7, 2006

PRESENT:

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

ABSENT:

ELIZABETH CALABRESE

The following are the minutes from the New Jersey Highlands Council meeting which was held at 100 North Road, Chester, New Jersey on September 7, 2006 at 10:00 a.m.

CALL TO ORDER:

The Chairman of the Council, Mr. John Weingart, called the 32nd meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:10 a.m.

ROLL CALL: The members of the Council introduced themselves.

PLEDGE OF ALLEGIANCE was then recited.

OPEN PUBLIC MEETINGS ACT:

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

MINUTES OF JULY 27, 2006:

Mr. Jack Schrier motioned to approve, Ms. Janice Kovach seconded, no public comments were received, all other members were in favor, APPROVED.

MINUTES OF JUNE 22, 2006:

Mr. Jack Schrier motioned to approve, Ms. Mimi Letts seconded, Mr. Tim Dillingham abstained, no public comments were received, all other members were in favor, APPROVED.

CHAIRMAN'S REPORT:

Chairman Weingart reported that he was happy to announce that Governor Corzine has nominated two candidates to fill vacant seats on the Highlands Council, but that they had not yet been heard by the full Senate. The two nominees were Mr. Erik Peterson and Ms. Tahesah Way from Wayne in Passaic County. Mr. Weingart noted that Ms. Way was present in the audience and introduced her to the Council and public and also thanked her for attending. (Mr. Peterson arrived after the meeting had started and was also acknowledged by Mr. Weingart).

Chairman Weingart noted that the summer was the longest break between meetings for the Council to date, but that the staff has been very busy and has generated a great deal of information. He noted that staff has been focused on public release of the draft Regional Master Plan.

The Chairman also announced that during the month of September, Council work sessions are scheduled for each Thursday and that they will all be held at 10:00 a.m. except for the meeting on September 14th, 2006 which will begin at 4:00 p.m. Mr. Weingart asked the members to hold October 26th, 2006 open for another possible meeting, and that Ms. Denise Guidotti will be contacting the members as to their availability for that day as a possible date to adopt the draft plan.

Mr. Weingart then welcomed Council member Ms. Debbie Pasquarelli to the meeting.

Mr. Weingart reported that the Local Participation Committee will also meet at 2:30 p.m. on Thursday, September 14th, 2006 prior to the 4:00 p.m. Council meeting. The committee will discuss making the plan available to the public and how to receive and disseminate their comments in a form that is easy to digest. Mr. Weingart noted that one public hearing on the draft plan has to be held in Trenton, and the other five will be in locations the Council determines to be the most beneficial to maximize receiving the public's comments.

Mr. Weingart noted that 6 hours have been set for the day's meeting, and that he would try to keep the Council on the schedule which allows a half hour for lunch around 12:30 p.m. He noted that even though it will be a long meeting, there will not be breaks. He also asked that if anyone had cellular phones in the room, to kindly turn the sound down to avoid distractions.

Chairman Weingart asked if any members had reports and since none did, he turned the meeting to Mr. Dante Di Pirro for the Executive Director's report.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Di Pirro reported that he was happy to welcome and introduce Ms. Patty Sly as the Council's Director of Government Affairs and Operations. He noted that she has begun working with the staff and is helping to prepare for the work sessions.

Mr. Di Pirro announced that staff has been collecting comments and has made them available to the Council members on the web location so that members can see firsthand what the public has to say.

Chairman Weingart then welcomed Council member Mr. Kurt Alstede to the meeting. He then turned the meeting to the next agenda item.

COMMITTEE REPORTS:

Ms. Pasquarelli reported that the two Committee reports would be tabled to the next Council meeting but noted that the **Land Conservation Committee** met and that the draft report in the members' packets and that a letter was being drafted to the Governor regarding reinstating the Garden State Preservation Trust fund. Mr. Scott Whitenack asked that the draft committee report be revised to include him on the list of attendees, as he did attend the Committee meeting.

Ms. Pasquarelli noted that the **Budget and Finance Committee** also met and that the draft report advises that the committee is in the process of preparing the 2007 fiscal year budget.

DRAFT RMP WORK SESSION TOPICS:

Chairman Weingart advised that he would like to hear the Council members' thoughts about September work session issues going forward, and how to handle discussion on specific topics. He noted the Council would not likely be taking formal votes at each meeting, that it would be sharing views and examining them, and that if formal votes were taken there would be an opportunity to comment on those specific issues.

Mr. Weingart reported that during the month of October 2006, members will see a draft of the Regional Master Plan which will incorporate all of the data and policy recommendations made. At that point, the Council will have the opportunity to read the plan and the draft will become formal after a vote and subsequently the draft plan will be released for public comments.

Mr. Weingart noted that the public may have noticed in recent newspaper articles that this Council meeting is being conducted differently than past meetings, in that at least one public comment session has been on all Council meeting agendas in the past, but that this format has been changed for the September meetings to allow ample time for the Council to focus more intently on the draft plan issues. He advised the Council will go through the meeting without public comments, but that Ms. Patty Sly has forms for the public to write their comments down if they cannot stay to the end. He advised that the meeting will conclude at 4:00 p.m. at the latest, and after a short adjournment of fifteen minutes, he and some members will remain to hear any public comments which will then be summarized and sent to all members.

Mr. Weingart stated that would be the process, and asked if any members had questions. Since none did, he turned the meeting to Mr. Dante Di Pirro for introduction of the first work session topic.

Mr. Di Pirro advised that the staff has assembled a wealth of data and will be building upon that science at the upcoming work sessions. He noted that in addition to gathering new information, it has also updated and refined existing data. Mr. Di Pirro said that counties have participated with parcel data, and that data was also developed and refined with professionals. He said that staff has attempted to provide a foundation for the draft plan effort and that now was the time to apply the data collected.

Mr. Di Pirro noted that policy portions of the plan are essentially text which will be the principals that the Council will use to guide land use in the Highlands Region, and the second portion will be the language used for the Land Use Capability Map (LUCM). As staff goes through and demonstrates each of the layers, members won't see the final integration at this point, but he noted it was important to view them separately and

understand how they will work together. Mr. Di Pirro advised that 18 different topics will be covered at work sessions, which will all be integrated and then flow into the LUCM.

Mr. Di Pirro reported that October 2006 is the target release of the Regional Master Plan, followed by six public comment sessions. He noted that the plan would still be considered draft and not final after the public comment sessions. The next phase of plan adoption will be the “pre-conformance” phase between final adoption and the initiation of Plan Conformance by municipalities and counties. Mr. Di Pirro stated that towns and the Council will move through and gain consensus on the framework and that once towns embark on conformance, there will be about a fifteen month period where everyone will work toward ultimate conformance.

Mr. Di Pirro noted that the staff formed various teams to advance the development of the draft Regional Master Plan, including a map team, a technical team, and a writing team. Mr. Di Pirro commended the teams and noted they have spent many late nights and weekends working tirelessly to help bring the best science and planning to the Council. Mr. Di Pirro turned next to Mr. Balzano and Ms. Danis for an overview.

Mr. Balzano stated that a snapshot of the framework of the Regional Master Plan would be given, which illustrates how some of the elements will fit into writing the plan. He introduced Ms. Danis to give a power point demonstration. Ms. Danis said a regional perspective would be utilized and that peeling back political borders and envisioning the Highlands regionally was the most desirable approach. She emphasized the need for great stakeholder support.

Ms. Danis reported that the Council has spent much time on how to protect the natural resources as well as the economy which is the true meaning of smart growth. Ms. Danis noted the Highlands Act is a resource protection and planning act, with the goal being how to establish guidelines to protect the natural resources and at the same time allow for growth and economic viability.

Mr. Balzano noted that the Land Use Capability Map will be developed to identify and inventory water resources and other Highlands resources and to reference standards to be used to achieve protection and management in a way that contributes to the Highlands Region as a whole. He noted that the technique to be used is overlay zoning – which is a supplement to existing municipal zoning. Mr. Balzano added that the concept of sustainability is about meeting human needs without depleting natural resources and that if the infrastructure limitations greatly impact on growth potential, growth cannot be promoted where the quality of the groundwater becomes too compromised. Zones where development should not occur because resources are so constrained will also be identified.

Mr. Balzano said there are three overlay zoning concepts at this point, and that it is likely that the final LUCM will include additional zones following the overriding concepts of the following: Regional Protection Zone, Regional Conservation Zone, and Regional Development Zone. Mr. Balzano explained that the policy and standards are the policies that apply to each of those zones and will need to be consistent with the guidelines implemented by the Highlands Council. He advised that they relate to different aspects of the plan – such as the smart design standards, which help guide development in a manner that is compatible with the resources.

Mr. Balzano noted that the Land Use Capability Map is being developed using a subwatershed approach. These subwatersheds (having Hydrologic Unit Code of 14 or HUC 14) of the Highlands Region includes 183 different HUC14s.

Ms. Danis said that one of the components of the RMP is Resource Assessment and the elements of that are: Water Resource Management, Ecosystem Management, Land Preservation and Stewardship, and Sustainable Agriculture and Forestry Practices. Mr. Balzano said the focus at the meeting today would be on three topics within the Ecosystem element of the Resource Assessment. Specifically these ecosystem issues include

Highlands Open Waters, Riparian Corridors, which are similar to open waters but they are the lands that drain into those waterways and the land that drains directly into streams and Significant Natural Areas which are unique communities that have unique values and have rare and endangered natural plants and species present.

Ms. Danis said the Smart Growth component of the RMP has the following elements: Regional Land Use and Smart Design, Transfer of Development Rights, Utility Capacity, Transportation and Air Quality, and Historic and Scenic Resource Protection. She noted that the Wastewater Infrastructure discussion for the meeting today was a part of the Utility Capacity element.

Mr. Salovaara commented that the staff that have made a series of statements about “we need to do these things,” and stated he would prefer that statements be supported with specific reference to the Highlands Act. He asked what was meant when staff says we need to do “x”, because he explained it would be easier for him and maybe the public as well, if the portion of the Highlands Act was cited which requires the Council needs to do “x.” Mr. Salovaara added that the point made about being “blind to the line” was an example of this issue because it was his understanding that the Highlands Act is very specific about different standards applying to the Planning Area and the Preservation Area.

Mr. Schrier noted that he has resolved in his head when he says that the “blind to the line” point needs to be articulated over and over because if the Highlands Council is discussing watersheds -- then that is what it is examining -- not political lines. Mr. Schrier agreed that the Council has to deal with political realities, but that it has to do that after the water resources are analyzed. Mr. Balzano said for purposes of this discussion it is the resources that matter and the assignment of values to those areas. He said it is most significant to discuss those issues after we examine the regional on the whole.

Mr. Salovaara requested staff to identify clearly what decisions that are specifically related to mandatory requirements of the Highlands Act and those decisions that involve the exercise of the Council’s discretion. Mr. Di Pirro said staff developed the white papers and technical documents to address the requirements of the Highlands Act. Mr. Borden advised that the white papers have been pared down, but that these documents could be expanded. Mr. Weingart said he agreed with Mr. Salovaara in that it would be helpful to know where policy actions are required in the Act.

Ms. Pasquarelli asked Mr. Salovaara to clarify whether his concern was over confusion or of the Council overreaching its bounds. Mr. Salovaara replied that generally he doesn’t want to overstep bounds and also wants to see on paper where each sentence in the plan is demanded in the Act. He suggested using footnotes or whatever reference tool to point to what part of the Act demands each action taken.

Ms. Pasquarelli noted that the Council members will need to receive materials earlier in order to have time to examine the policy issues and she asked when the Council would be making decisions relative to the policy issues. Mr. Weingart said that a very helpful item in the packet was the draft Table of Contents which outlines which section we are dealing with. Mr. Di Pirro noted that there are three types of documents: the technical memoranda, the technical reports that go into the plan and the white papers. They begin with what staff did and why and will provide documentation for the science. He noted that the Council has prepared over twenty technical memoranda and that these documents will be incorporated into technical reports when the Council completes the work sessions. The white papers, or background documents, were completed by the staff to recommend policy action items to the Council and policy decisions on how data layers can be integrated into the LUCM. He noted that staff also developed these documents to summarize the essential elements which have an introduction, show the requirements of the Act, provide the definitions and reference the parts of the Act, then a summary of the approach.

Mr. Salovaara said he worries that the resource assessment and the policy issues are being conflated. He feels that slipping into integrating that into a map is what concerns him. He wants the Council to be very careful in making sure it is looking back at the policies it is directed to implement all the time. Mr. Salovaara said he hears and sees written down that the two are being conflated and is also afraid the Council will forget that there are things in the Act that must be addressed first.

Ms. Tracy Carluccio said that the approach of using technical documents and the white papers work for her and that they have done a good job of explaining the issues. She said that it does lay out in the beginning what the Act says and why the Council is examining an element, and how the resource assessment is going to relate to policies. Her problem was that the white paper should lay out very clearly what policy decisions should be made. Ms. Carluccio said her concerns aren't with having three different papers or that the Council is missing the parts of the Act. She said she would like to know what specific policy decisions have to be made by the Council and want to avoid having policy issues inbedded in the white papers. Ms. Carluccio suggested the Council should focus and sort out what policy decisions have to be made and added that if the Council steps back and listens in order to do a resource assessment, it has to be blind to the line. She noted that the Council cannot be looking at the politics or regulatory perspective until after it looks at what's on the ground what defines the zones.

Mr. Weingart said that the blind to the line approach does achieve what Ms. Carluccio is suggesting, and the Council does have to look at what differentiations need to be made to Planning Area and the Preservation Area. Ms. Mimi Letts suggested the staff create a cross-reference of the legislative demands and the various elements of the plan and supporting documents.

Mr. Weingart asked that the staff move on to the first topic. Mr. Di Pirro advised the presentation will be given by Ms. Christine Ross, the Highlands Council's Senior Resource Management Specialist, and by Mr. Roger Keren, the Council's Director of GIS.

Highlands Open Waters Designations

Ms. Ross gave a demonstration which illustrated the four categories of Highlands Open Waters created for the Highlands Region: Highlands Waters, Special Waters, Exceptional Waters, and Intermediate Waters. Mr. Salovaara asked Ms. Ross to clarify which waters were the Council's designations, and which were designated by the Act. Mr. Kurt Alstede agreed with Mr. Salovaara in that he would like to know that policy decisions mandated by the Act are being addressed and made. Mr. Tim Dillingham said that when the Act is examined closely, it tells the Council to define all the waters in the Highlands Region and thought is may prove burdensome if the Council tries to put a footnote on every line where it is defined in the Act.

Mr. Weingart said there are clear distinctions in the Act as to the Council's discretion. It should be noted that there is a very broad charge of the Act that the Council make determinations to protect the water resources of the Highlands Region. Mr. Balzano noted that the purpose of the demonstration was to define where the Highlands Open Water resources are, and the level of protection to apply in order to maintain and protect the quality of each resource.

Mr. Salovaara reiterated his request to address the specific requirements of the Highlands Act to avoid the need for Council members to look through the entire Act to see where it is demanded. Ms. Carluccio reiterated that she doesn't believe the policy decisions are clearly illustrated by looking at the white paper. Mr. Schrier noted that he was concerned about the definitions at this point because of the result and impact on agricultural uses. Mr. Alstede said he wants a clear identifiable goal stated at the beginning. Mr. Salovaara agreed and said that the Council is charged with making a Resource Assessment. He noted the Council does need to locate all of the

Highlands waters and it does seem that what Ms. Carluccio is talking about is what should be done with Highlands waters once identified.

Mr. Di Pirro stated that some members wanted the background and data first, and then move into a policy discussion using that data in order to make its policy decisions. Mr. Schrier agreed and said it is premature for the Council to make policy decisions, and that the time to do so is in October. Mr. Alstede said the Council needs to make some decisions up front believed the staff should be advising the Council in a clear, concise way.

Ms. Letts said the two documents on open waters go into the goals very clearly and how it relates to the Highlands Act. She advised that she chairs the Local Participation Committee and feels that when she is out and people in the public want to know why the Council has made certain decisions, she would like to be able to say that she knows why certain decisions were made based upon the data.

Ms. Carluccio said she felt the language in Section 3 of the document was a bit too lenient. She believed it should say “no development” in protected areas not “discouraged.” She added that it may be too vague as well. Ms. Carluccio added she has gone through the documents and crossed out portions. Some of it is semantics, and the Council and staff should revisit and clarify precisely what the end points will be. Mr. Di Pirro pointed to Section 3 of the background document and noted that the staff outlined the rationale behind each of its recommendations.

Mr. Alstede said he believed that the Council is not progressing and that the demonstration seemed to be repetitive of what it has been shown at past meetings. Ms. Carluccio disagreed with Mr. Alstede and said that the Council needs to have the background information. She did however state that fundamentally Mr. Salovaara touched on a point, such as why the Council is evaluating according to a certain approach. Council members debated on what would be the best method and approach to use at the upcoming work sessions to advance policy decisions. At 12:55 p.m. Mr. Salovaara advised he would need to leave the meeting.

Ms. Carluccio stated a 600-foot buffer could be imposed for Highlands Open Waters and then it could be defined what can be done within the buffers. She thought the Council should set a very high bar as to certain criteria of the plan such as open waters and riparian corridors.

Mr. Weingart asked if any members had comments it wished to be considered over lunch. Mr. Glen Vetrano said he agrees with Mr. Alstede when he said that the Council needs staff to give it something that it can go through town by town. He said he also agreed with Ms. Letts as to the voluntary aspect of the Highlands Act for the Planning Area that how strict the Council makes the plan, it will make all the difference to towns.

Mr. Balzano said everyone is anxious to get to the end, but imagine for example we were building a house, and we need the fundamental questions answered first before we can start building. If not, then the house could be built wrong and would need to be torn down and start all over. He said that time is of the essence and there would be no time to design the plan twice.

Ms. Pasquarelli expressed her concerns that the decision making process was flawed and that the Highlands Council previously agreed to a process where staff would draft background materials and the Council would be able to deliberate on initial standards and policy decisions. This approach was recently changed in a memorandum to the Council setting forth a system that would include staff recommendations and a limited timeframe for Council decision making in September. She added that she was uncomfortable with the work session decision making process. Mr. Di Pirro noted the process was altered as staff identified issues. He sought guidance from the Chairman and other members as to how to proceed because it was recognized that it

was going to be a challenge for the Council to advance so many issues within the limited timeframe. He advised that the staff will proceed any way the Council wished, and asked how they would like to go forward.

Mr. Weingart noted he would take credit for the change in process decision, and noted that making certain policy decisions through committee meetings, as Ms. Pasquarelli mentioned, presented problems as well because he didn't believe it would be agreeable to all Council members to give such deference to a small part of the Council. He added with regard to what Mr. Schrier said, that indeed this is a hard process, but also great. Mr. Weingart adjourned the meeting at 1:15 p.m. for a lunch break.

LUNCH BREAK:

Chairman Weingart called the meeting back to order at 2:05 p.m.

Mr. Weingart asked the staff to take a few minutes to summarize where things stood after the break, and asked that the members allow them to do so without interruption. Mr. Di Pirro outlined the Regional Master Plan standards in three categories: resource protections standards, standards addressing smart design and growth standards. The first concept examines recommendations statements in the policy guidance document that would protect resources and limit development and standards would be incorporated into ordinances and master plans. Mr. Di Pirro noted that Ms. Carluccio's suggestion to be as specific as possible in the future has been taken and will be incorporated. Mr. Schrier said for clarification purposes, that these are purely recommendations that staff is making, and Mr. Di Pirro replied that was correct.

He then asked the members to look at page 2 section 3a of the white paper on Highlands Open Waters. Mr. Di Pirro said the Council could have values that apply to certain regions and the staff's recommendation would be to outline approved uses as defined by the values assigned to each area. Mr. Di Pirro said each of the overlays and how they relate to the protection zones will be examined to determine how to treat a particular resource.

With regard to the third area of the implementation framework element, Mr. Di Pirro stated that everything cannot be initially included in the plan in December because towns will go through pre-conformance for six months and as towns decide where they want to go, additions and changes will occur. Mr. Di Pirro also noted that coordination with State and federal agencies was also important, noting that the NRCS develops plans for farmers and has agreed to coordinate and work the Highlands goals into their rules.

Mr. Balzano noted the need for understanding the different types of protection areas and how the plan applies to each. There are areas that are already built and developed in the protection area, as well as high-quality pristine areas for protection. He said existing state regulatory programs for the protection of water resources also need to be taken into account.

Mr. Balzano gave a good demonstration in a power point display of what happened historically in one area of substantial development where the adjacent lands of a high-value water body has been over developed. Mr. Schrier asked him how can the Council then "restore" such an area. Mr. Balzano said stopping further degradation is the first step to restoration and that stopping development in those stressed areas would be an immediate improvement.

Mr. Dillingham said that if one looks at the world as what it is today and sets the standards there, in essence we could be condemning an area to always be what it is now at best. He wondered how restoration or improvements could be made. Mr. Balzano noted that prevention from worsening conditions would be helpful, but it does present a difficult task in improving them. Mr. Dillingham noted his concern about characterizations precluding improvements.

Mr. Weingart asked the members to discuss the process and how the Council wants it altered going forward. He believed it was clear at a minimum that the Council wants to see future papers clearly reference the Act and asked whether this process seemed to work. Mr. Schrier said that was exactly right and believes it will take the Council where it wants to go. Mr. Balzano noted that the resource map is very complex and that the staff has had a lot of internal discussions about how to introduce it.

Mr. Dillingham agreed that the proposed process worked as well. He noted the Council should use this iterative process and that the morning portion of the work session was tense as to what parts of the Act requires what. He agreed to go forward with this.

Ms. Carluccio also wanted to stick with the background information and resource data and noted that qualitative analyses will help the Council make decisions. She requested that staff pull out references to the Act when it is another state agency requirement. She also said she wanted to know if Council members can email their comments and suggestions to staff.

Mr. Weingart asked if the white paper contained the actual language which will go into the plan. Mr. Di Pirro said it was designed with that in mind so that if the Council approved of the policy statements, staff could take portions and place them into the plan. Mr. Weingart noted it may be better if the Council begins with the standard or policy guideline, and then provide the reasons that back up the recommendation.

Mr. Weingart said since a process has been agreed upon, he suggested going back to the comments given by members to devise the policy and that staff should go back and redraft, then the Council will revisit it. He pointed to page 3 of the white paper.

Ms. Pasquarelli said she thought part of the problem was having two documents and asked if a singular document could be fashioned with each piece of relevant information incorporated. Such as, leave the technical memoranda as they are, but take the white paper and the background paper and re-form it into one. Mr. Borden said that could be done, and that anything in the singular document which appears in italics would be language not going into the plan, and would be background information; the rest of the language would be actual text for possible inclusion in the plan.

Ms. Carluccio said Mr. Weingart mentioned the Table of Contents document, and agreed it would be helpful to her if she could see that outline utilized. She noted that since the substantive discussion is not over, that those issues will have to come back to the Council.

Mr. Schrier said since the Council is not satisfied with the document for Highlands Open Waters, it could start over with that at the next meeting with policy recommendations.

Mr. Dillingham said he wanted to spend some time discussing substance. Mr. Dillingham said with regard to the protection areas idea, he asked why is it presumed that the Council should use a sliding scale of protection. He also wanted to know why there should be a declining level of protection. Mr. Dillingham noted that he understood this approach is taken in the Freshwater Wetlands Act, but he thought the Council could set the bar higher and still allow for adjustments for situations on the ground.

Mr. Dillingham said Mr. Balzano noted the buffers from the Freshwater Wetlands Act were used as a guide, but if they are not adequate, he asked why the Council couldn't place them where they ought to be. Mr. Dillingham thought the Council should not be bound by numbers that don't adequately protect. He added that there is no mandate in the Act, in fact he noted it states to treat the waters equally, and as well as the Council can for anti-

degradation purposes. He thinks categorizing stream segments was a great idea. He also thought the goals need to be written in a way to promote restoration. He said he would like to hear more about why high-value stream segments should allow for agricultural exemptions. He believed it is a known fact that agricultural uses can have a tremendous affect on water quality.

Mr. Weingart asked for more questions. Mr. Schrier said the sliding scale is nothing more than what the DEP has already done, and the Council doesn't have to agree with it. He said however, that the Council could certainly start there, because when the Council is sued as it surely will be, it is a point to start with.

Mr. Dillingham noted that Ms. Carluccio and Mr. Balzano both know that the buffers can go from 1200 feet to 600 feet. Ms. Carluccio agreed with Mr. Dillingham and thought the Council should be discussing a buffer. Ms. Carluccio said the Council should be doing what the DEP couldn't do. Ms. Carluccio said the Council is charged with taking care of not only the water, but the ecologic watershed as well. She restated the need for a very wide buffer and thought the Council could put it forward to protect all the water of the Highlands using all the data that has been painstakingly identified by the staff to categorize areas by what uses would be allowable in the buffers and various zones. She said the Council could begin with a standard of a very wide buffer, and didn't believe there was a need to throw away what has already been done. She said for example, the need to close the gate, and say what can happen inside the gate. Ms. Carluccio mentioned that other states, such as Michigan are in fact doing so.

Mr. Schrier said that what Ms. Carluccio was saying in essence was that the Council should ban all development and protect all the water the same throughout the region. Mr. Weingart said he wasn't completely clear, but that the legal term buffer meant no development. Mr. Balzano said the D&R Canal states that if you are within a certain zone, you have a review zone because you are closer to resources. With regard to Mr. Dillingham's references to using a sliding scale, he asked if Mr. Dillingham thought what Ms. Carluccio was saying could be considered a sliding scale to him, and Mr. Dillingham replied yes.

Ms. Letts said there should be more emphasis on restoration of streams that have been degraded and asked that the Council put forth a program to take an active part in getting restoration measures under way. She noted that she would have to agree more with Mr. Schrier in using a varying scale because 600 feet is very large. Ms. Letts said the Council needs to make the buffer defensible, and by utilizing all the good data which the staff has collected, the Council can differentiate and say that one area is very sensitive and another area is not. Mr. Weingart said the staff needs to make its recommendations to the Council. Ms. Carluccio wanted to know when the Council will discuss what is allowable in buffers.

Mr. Balzano briefed the Council on the development of the Land Use Capability Map. He noted that at least eighteen data layers will be examined and that the next step would be an enhanced view. Mr. Balzano noted there will be conflicts, but this level of analysis will get the Council to the next step. He said setting the baseline to complete the analysis, integrate the analysis, and then go back into the individual layers to allow the Council to avoid the one concern he has in over-imposing buffer. Mr. Weingart asked if the 600 foot buffer was used in the Pinelands and Mr. Balzano replied it was not, that it is 300, but where there were special areas identified, it was increased to 600. Ms. Letts said she agrees with Mr. Balzano, in that if the Council implements buffer that it can adjust, it won't be able to enforce it because every time it adjusts it, people will come back and say it adjusted it for one and should do so every time.

Mr. Weingart wants to know how the Council can come to a consensus, and believed it needs a paper with staff's recommendations in it for policy. He reminded that policy could not be created in committee. Ms. Carluccio said she wasn't seeing the issue so much as review zones, but more from a watershed management rule standpoint. Her concern over establishing zones as to the DEP way of doing so, is that the Council will not

allow enough for the prevention of degradation of the resources. Mr. Balzano said sliding scales often produce slippery slopes, and that the Council has to be cognizant even though part of the charge is protecting and restoring, it also has to encourage growth where it can be accommodated. There are streams that run through areas of development. Where that conflict currently exists, there may be greater benefit to the resource overall in terms of stabilization if the obligation on the part of the municipality or the land owner in that area, is to put their money into improvement of the site instead of a review process.

Mr. Weingart said since this is clearly an unresolved issue after 6 six hours, he suggested adjourning to keep to the schedule and resume discussions at the next meeting.

Mr. Weingart asked that in addition to members meeting every Thursday in September, the schedule also has October 5 and 19th meetings, and asked that an addition meeting on October 26th be scheduled. He asked if there was a motion to adjourn to reconvene at 4:10 pm.

ADJOURN:

Mr. Schrier motioned to adjourn, Ms. Kovach seconded, all were in favor, and the meeting ADJOURNED at 4:00 p.m.