

**NEW JERSEY HIGHLANDS WATER PROTECTION  
AND PLANNING COUNCIL  
MEETING OF JANUARY 11, 2007**

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

**PARTICIPATING VIA TELECONFERENCE:**

TAHESHA WAY )

**CALL TO ORDER:**

The Chairman of the Highlands Council, John Weingart, called the 42<sup>nd</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 12:20 pm.

**ROLL CALL:**

The Chairman asked the members of the Council to introduce themselves.

**OPEN PUBLIC MEETINGS ACT:**

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

**PLEDGE OF ALLEGIANCE:**

Chairman Weingart asked all who wished to join in the Pledge.

**APPROVAL OF MINUTES:**

Chairman Weingart asked for approval of the November 20 meeting minutes. Mr. Schrier motioned to approve and Ms. Letts seconded. The minutes for November 20, 2006 received a unanimous APPROVAL. Chairman Weingart asked for approval of the November 30, 2006 meeting minutes. Mr. Schrier motioned to approve the minutes and Ms. Letts seconded the motion. The minutes for November 30, 2006 received a unanimous APPROVAL. There were no abstentions on either motion.

### **CHAIRMAN'S REPORT:**

In his report, Chairman Weingart announced that there would be some changes in the Council's committee structure. Some of the changes include the following: an addition of a Transfer of Development Rights Committee, changing the Smart Growth Committee into the State and Federal Agency Coordination Committee. Also included were making the Agriculture Subcommittee a committee and changing the Local Participation Committee to the Public Participation Committee.

### **COUNCIL MEMBER'S REPORTS:**

Mr. Schrier commented on the Council's public hearing on Tuesday, January 9, 2007 in Morristown. He believed it to be very well attended. Mr. Schrier was disappointed in the hearing in that the hearings were supposed to be comments on the draft Regional Master Plan but it turned into an extension of the Council meeting public portions. He believes that it is because many people have not read nor understood the draft Regional Master Plan.

Ms. Calabrese complimented Ms. Carluccio on handling the public hearing in Mahwah, stating that she did so with patience and dignity. She then welcomed everyone to Bergen County. Ms. Carluccio responded that she received very valuable feedback from those who attended.

Mr. Vetrano mentioned that he was looking forward to the Sussex County hearing. He thanked Mr. Di Pirro, Mr. Borden, and Mr. Balzano for meeting with the municipalities within Sussex County that are affected by the Highlands Act on January 2, 2007. He mentioned that everyone thought it was very helpful and very effective that the municipalities had the time to go over the mapping issues of the draft Plan.

Chairman Weingart announced that the list for the committee structures were out and available. He reported that he tried to accommodate everyone's requests to be on a specific committee. Membership in the committees is subject to approval of the Council. Chairman Weingart then asked for a motion to approve the Council committee structure. Ms. Carluccio made the motion and Mr. Dillingham seconded. The motion was APPROVED with all in favor, no abstentions or opposing votes.

### **COMMITTEE REPORTS:**

There were no committee reports.

### **EXECUTIVE DIRECTOR'S REPORT:**

Mr. Di Pirro mentioned the first few items related to the release of the draft Regional Master Plan. The staff has posted the plan and supporting materials to the website and mailed copies of the materials to municipal and county officials. Materials have also been mailed to the Executive and Legislative branches of government. All materials have been made available on the Council's website and on CD.

Mr. Di Pirro reported that the public has been providing comments by mail, email, and fax. He commented on email being very easy to use and can be accessed by the website. Mr. Di Pirro also underscored that the draft Plan is just a draft and that changes to the draft Plan are anticipated.

Mr. Di Pirro mentioned that there is a full schedule of public hearings and that the hearings to date have been a success. Mr. Di Pirro also informed the Council that he is also very pleased at how civil the hearings have been. He mentioned that it bodes well for the process the Council has established. He stated that the public remains involved and the comments are helpful.

Mr. Di Pirro informed the Council that the Builder's Association has filed a lawsuit against the Highlands Council seeking numerous documents. They requested the Council's consultant reports that were created for review by the Council. He mentioned that the Council provided four reports in their entirety and two documents with only minor redactions. The redactions were based on specific OPRA exemptions. Mr. Di Pirro also mentioned that two preliminary reports were not released because they are written on contracts that are still ongoing have not been used in the draft Plan.

Chairman Weingart asked for the timing of when the Builders' requested the information and the amount of communication before the lawsuit was filed. Chief Counsel Tom Borden replied that the Association submitted an OPRA request in late October requesting all of the consultants' reports. He reported to the Council that he advised the Builders' Association that the Council was in the middle of intense development the Draft Plan and that they would be given the reports in mid-December. He informed the Council that the reports with redactions were given to the Builders Association on December 15, 2006. The Association did not communicate with the Council and thereafter filed the lawsuit. He also mentioned that a hearing was scheduled on this matter on January 12, 2007 at 1:30. They have submitted papers to provide the basis of the Council's opinions.

Ms. Letts asked if there were some reports that haven't yet been released. Mr. Borden replied that some of the contracts are ongoing and under development for the next phase of the Plan. The reports that are under development for the next generation of the Plan and have not been made available because they are still under deliberation. Mr. Schrier asked for clarification as to information that has not been released, if it is not pertinent to the draft Regional Master Plan and Mr. Borden concurred. Mr. Salovaara asked if there was an important reason to be concerned over these documents. Mr. Borden responded that there was indeed a strong reason because the reports that were received from these consultants came in September and October and have not been reviewed fully by the staff nor has the Council had a chance to review them. It is essential for open communication and deliberation that the reports be examined before being released publicly as they are not positions of this Council.

Chairman Weingart asked if the reports were final or if they were drafts and Mr. Borden responded that they are incomplete being only halfway through the consultant process. Ms. Letts mentioned that once asked by the press, she was not able to respond regarding the reports. Mr. Borden replied that the papers filed with the Judge states the Council's stance and reason for not releasing all of the documents. Mr. Di Pirro then suggested that if the Council wanted to go into legal strategy, they should go into Executive Session. Chairman Weingart agreed that they would after they moved through the rest of the agenda.

Chairman Weingart welcomed Ms. Pasquarelli and Ms. Kovach. Mr. Di Pirro then finished up his report by mentioning that his longtime executive assistant, Ms. Denise Guidotti,

relocated to Trenton due to personal issues and advised the Council that Ms. Latonia Hall would be filling in. He advised the Council members that they could feel free to contact Latonia and that all contact information would be furnished for them.

Chairman Weingart asked Mr. Di Pirro how public comments on the Regional Master Plan would be kept track of and how any requests would be handled. Mr. Di Pirro answered that staff would be recording and taking notes on all of the hearings. He informed the Council that the information would be summarized. Chairman Weingart mentioned that he believed the summaries would be the most helpful and that it would also be helpful if the comments were grouped together by topic.

Ms. Carluccio mentioned that she used to receive the forwarded comments that came in through the email and that she enjoyed reading them as they came in. Mr. Di Pirro responded that this process would be continued for any member that wished it and asked members to advise him. Whenever public comments are coming in by regular mail they are being scanned into the system. Ms. Carluccio replied that it is helpful to know what people are saying in response to the Plan. Ms. Letts mentioned that it is good to keep track of the numerous comments. In some instances, she was pleased to hear suggestions of placing some sort of water usage fee.

#### **CONSIDERATION OF RESOLUTION – ANNUAL MEETING SCHEDULE:**

Chairman Weingart noted that the Council meetings are being proposed to take place once a month and that meetings can be added as necessary. Mr. Salovaara made a motion to approve the proposed annual meeting schedule with a proposed change having the July 5, 2007 meeting on July 12, 2007. Ms. Pasquarelli seconded the motion. Chairman Weingart asked if there was Council member discussion or public comment. The motion was APPROVED with all in favor and no abstentions.

A member of the public asked if there would be a list of the committee meetings posted and what kind of notice is given to the public. The same member of the public then mentioned that some of the committee meetings, such as Plan Development Committee, should be advertised so that the individuals in the public with an interest in the meetings have a chance to attend them. Chairman Weingart responded that legal notice under the Open Public Meetings Act is not required but that the Council provides notice to the public on its website.

#### **CONSIDERATION OF RESOLUTION – HIGHLANDS COUNCIL OFFICERS:**

Chairman Weingart entertained motions for Vice Chair and Treasurer. Ms. Letts nominated Jack Schrier to continue in the position of Vice Chair. Mr. Salovaara seconded the motion. Chairman Weingart asked if there was Council member discussion or public comment. Mr. Schrier accepted the nomination and the motion was APPROVED with all in favor and no abstentions. Mr. Salovaara nominated Debbie Pasquarelli to continue in the position of Treasurer. Mr. Peterson seconded the motion. Chairman Weingart asked Ms. Pasquarelli if she would be willing to serve another year as treasurer and she responded yes. Chairman Weingart asked if there was Council member discussion or public comment. The motion was APPROVED with all in favor and no abstentions.

## **CONSIDERATION OF RESOLUTION – SUSSEX COUNTY PETITION FOR PLAN ENDORSEMENT:**

Mr. Vetrano recused himself from participating in the discussion of the Sussex County Petition for Plan Endorsement on the basis of having voted on the petition as a Sussex County Freeholder. He recused himself on the advice of the State ethics advisor and the Chief Counsel to the Highlands Council.

Concern was voiced by several Council members over the recusal because it eliminated the opportunity for the Council to hear from the individual most knowledgeable on the issue. A motion was made asking the Council's Chief Counsel to draft a letter to the State Ethics office asking for clarification of the policy regarding elected officials participating in discussions regarding their county or municipality, be they general or specific. The motion was APPROVED with ten Council members in favor.

Chairman Weingart asked Mr. Borden for background information on the Resolution for the Sussex County's Petition for Plan Endorsement. Mr. Borden provided an overview of the issue of the Plan Endorsement process in the Highlands. He advised that the issue arose last year during another State Planning Commission's (SPC) Committee meeting on the endorsement process. Mr. Borden informed the Council that the Council sent a letter and he testified before the SPC's Committee regarding the priority consideration given to regional planning. The Highlands Act specifically amended the endorsement process in the Highlands Region where the Council has authority over endorsement in the Preservation Area.

Council members discussed coordination between the Highlands Plan and the State Plan and the timing of State Plan endorsements prior to the time that the Highlands Plan is adopted. The Council discussed the fact that State Planning Commission has a pending petition before it related to Sussex County's Growth Plan and whether the Council should comment.

After much discussion, Mr. Salovaara noted that the Council has had a general policy recommending that State agencies hold off on action affecting the Highlands to the greatest extent possible before the Highlands Plan is adopted. A motion was made by Mr. Salovaara to ask the State Planning Commission to defer any endorsements in the Highlands Region until the Regional Master Plan is adopted. Mr. Alstede and Mr. Whitenack seconded the motion.

## **PUBLIC COMMENT:**

**David Troast, Sparta Township, Director of Planning.** Mr. Troast mentioned that he agreed with the motion in the Preservation Area, but disagrees with it in regards to the Planning Area. He believes that municipalities should not be held up by the Plan as there is need for corrections. He believes that the resolution should be passed in regards to the Preservation Area. He expressed concern over the need to obtain Plan Endorsement under COAH's rules and stated that it took 6 years for Sparta to reach plan endorsement. He also raised concern over the question of density or appropriate uses in the Plan and thus could not recommend the Planning Area for plan endorsement. Chairman Weingart asked for the submission of any inaccuracies in the draft Plan.

**Michael Herson, Highlands Issues Coordinator for Sierra Club.** Mr. Herson advised the Council that two years ago, he advised the State Planning Commission to hold off on plan endorsement for Sussex County. He wants what is best for the Regional Master Plan. Chairman Weingart asked Mr. Herson if he was for or against the resolution on the table. Mr. Herson responded that he is in favor of the resolution that is on the table. He recommends that the Council send a letter to the State Planning Commission that tells them to defer any plan endorsement until the Regional Master Plan has been finalized.

**Wilma Frey, NJ Conservation Foundation.** Ms. Frey announced that she supported the resolution that the State Planning Commission should defer any plan endorsement until the RMP is finalized. She added that it is the obligation of the State Planning Commission to coordinate planning. The planning should be for an entire county, not just a municipality. The plan takes precedence if a portion of the affected county falls within the Highlands Region.

**Scott Olson, Byram Township.** Mr. Olson advised the Council that he is in favor of the current resolution. He believes that it is important that any plans that come in front of the State Planning Commission include the Highlands Council. The Council members should pride themselves on the amount of effort that has been put into the RMP. He added that sides should not be taken.

**Monique Purcell, Designee to the Secretary for the State Planning Commission, Department of Agriculture.** Ms. Purcell reported to the Council that the last thought that was left with the SPC was to wait until the draft Plan was released before going forward with the Sussex County petition. She also mentioned that it is not a good idea for State agencies to be butting heads and that they should work together.

**Julia Somers, NJ Highlands Coalition.** Ms. Somers is in favor of the motion on the floor. Action needs to be taken today or the Highlands Council will not be considered on January 24. She expressed concern that if the Council gives up any authority, it would be a terrible thing and would cause people to wonder why Council is present.

**Marianne Smith, Township manager of Hardyston.** Ms. Smith would like to thank the staff for coming to Sussex County. In theory, Hardyston would oppose the resolution as it stands. She sees a separation between the Preservation and the Planning Areas. Ms. Smith mentioned that she agrees with Ms. Purcell in that time is of the essence. She advised the Council that the delay of the draft plan and the adoption creates issues for municipalities, especially in regards to COAH.

**David Peifer, ANJEC.** Mr. Peifer advises that he is in favor of the resolution and says that he has grave concerns about the ethical issue. He opted to reserve those concerns to a later time.

**Fred Suljic, Planning Consultant for Vernon Township.** Mr. Suljic is in opposition of the resolution. Sussex County strategic plan is almost six years in the making. He hasn't heard anyone say that the strategic plan has deficiencies. Sussex is the only county to have

Councilmember Vetrano  
Councilmember Way  
Councilmember Weingart  
Councilmember Whitenack

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balanced growth. The decision regarding the strategic plan has been pending since January 2006.

After public comment, the motion passed with all in favor, no votes against or abstentions.

Mr. Schrier made a motion to table further discussion Sussex County's petition given that he felt that members needed additional information and opportunity to make an informed decision. Mr. Salovaara seconded the motion. Opposed: Ms. Carluccio, Ms. Calabrese, Mr. Dillingham, Ms. Kovach, Ms. Pasquarelli. In favor: Mr. Peterson, Mr. Salovaara, Mr. Alstede, Mr. Schrier, Mr. Whitenack, Ms. Letts. Chairman Weingart did not vote.

Mr. Vetrano and Ms. Way were not present for the vote. The motion required eight votes and did not pass.

Ms. Pasquarelli made a motion for the Council to hold a special meeting on January 18, 2007 to discuss Sussex's petition. Mr. Schrier added to the motion to have a representative from the Office of Smart Growth present for the meeting. Mr. Di Pirro recommended that Eileen Swan, the Executive Director of Smart Growth, be invited to the meeting and said that she had expressed a willingness to meet with the Council to discuss the endorsement process and Sussex plan. Ms. Pasquarelli accepted the addition to the motion and Ms. Carluccio seconded it. The motion passed with all in favor.

**EXECUTIVE SESSION:**

After a motion and approval, the Council went into Executive Session at 2:40 to discuss the litigation issues relating to the previously discussed public records litigation. The Council came out of Executive session at 3 pm reporting that they had been briefed on the litigation.

**ADJOURN:**

The council meeting was adjourned at 3:03pm.

Dated: 3/1/07

  
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John Weingart, Chairman

<u>Vote on the Approval of Minutes</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>	<u>Recuse</u>
Councilmember Alstede	✓	—	—	—	—
Councilmember Calabrese	✓	—	—	—	—
Councilmember Carluccio	✓	—	—	—	—
Councilmember Dillingham	✓	—	—	—	—
Councilmember Kovach	✓	—	—	—	—
Councilmember Letts	✓	—	—	—	—
Councilmember Pasquarelli	✓	—	—	—	—
Councilmember Peterson	✓	—	—	—	—
Councilmember Salovaara	✓	—	—	—	—
Councilmember Schrier	✓	—	—	—	—

**RESOLUTION 2007- 1**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**ANNUAL MEETING SCHEDULE FOR 2007**

**WHEREAS**, the Legislature has adopted the Highlands Water Protection and Planning Act and has created the public body corporate and politic known as the Highlands Water Protection and Planning Council (“Highlands Council”); and

**WHEREAS**, the Open Public Meetings Act directs public bodies to give adequate written advance notice of regular meetings and to establish and post an annual schedule of regular public meetings; and

**NOW, THEREFORE, BE IT RESOLVED**

1. The Highlands Council hereby adopts the following schedule of regular public meetings for the year 2007:

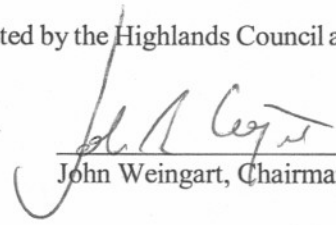
January 11, 12 noon  
February 15, 4 p.m.  
March 15, 10 a.m.  
April 12, 4 p.m.  
May 10, 10 a.m.  
June 7, 4 p.m.  
July 12, 10 a.m.  
August 16, 4 p.m.  
September 6, 10 a.m.  
October 4, 4 p.m.  
November 1, 10 a.m.  
December 13, 10 a.m.

2. The Highlands Council’s regular public meetings shall be held at the times noted above at its office at 100 North Road, Chester, New Jersey, with the understanding that the Council may choose to make changes in location or time but only with the provision of adequate advance public notice; and

3. The above schedule of regular public meetings shall be posted at the Highlands Council’s office and on its web site.

**CERTIFICATION**

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 11<sup>th</sup> day of January 11, 2007.

  
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John Weingart, Chairman

**RESOLUTION 2007-2**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**ELECTION OF OFFICERS OF THE HIGHLANDS COUNCIL**

**WHEREAS**, the Highlands Water Protection and Planning Act (the "Highlands Act") has created the public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (the "Highlands Council"); and

**WHEREAS**, the Highlands Act authorizes the Highlands Council to conduct its business as needed, subject to the statute, to effectuate the purposes of the enabling legislation; and

**WHEREAS**, the Highlands Act authorizes the Highlands Council to adopt bylaws; and

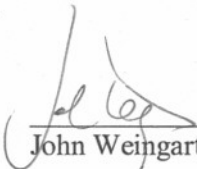
**WHEREAS**, the Highlands Council has adopted bylaws which provide for the election of officers to more efficiently conduct its business; and

**NOW, THEREFORE, BE IT RESOLVED**

1. The Highlands Council hereby elects Jack Schrier as Vice-Chair, and Debbie Pasquarelli as Treasurer of the Highlands Council.

**CERTIFICATION**

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 11<sup>th</sup> day of January, 2007.

  
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John Weingart, Chairman

## **RESOLUTION 2007-3**

### **NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL COORDINATION OF PETITIONS FOR PLAN ENDORSEMENT WITH THE ADOPTED HIGHLANDS REGIONAL MASTER PLAN**

**WHEREAS**, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

**WHEREAS**, Sections 8 and 10 of the Highlands Act require that the Highlands Council prepare and adopt a Regional Master Plan for the nearly 860,000 acre Highlands Region, with the goal of protecting and enhancing the significant values of the resources in the Highlands Region; and

**WHEREAS**, on November 30, 2006, the Highlands Council approved the issuance of the Highlands Draft Regional Master Plan for public review and comment; and

**WHEREAS**, the Highlands Draft Regional Master Plan is presently under public review and public comment and will be reviewed by the Council in order to make any appropriate changes based on new or additional information provided to the Council prior to final adoption of the Regional Master Plan; and

**WHEREAS**, in 2001, the State Plan designated the New Jersey Highlands Region as the first Special Resource Area in New Jersey based upon its unique characteristics and resources of statewide importance; and

**WHEREAS**, Section 8 of the Highlands Act requires the Highlands Council to, within sixty days of adoption, submit the Regional Master Plan to the State Planning Commission for plan endorsement for the Planning Area of the Highlands Region; and

**WHEREAS**, Section 72 of the Highlands Act amended the State Planning Act to require the State Planning Commission to “rely on the adopted plans and regulations of the Pinelands Commission, the New Jersey Meadowlands Commission, or the Highlands Water Protection and Planning Council in developing the State Development and Redevelopment Plan;” and

**WHEREAS**, Section 72 of the Highlands Act stresses the need to prioritize regional planning by the Meadowlands Commission, the Pinelands Commission, and the Highlands Council; and

**WHEREAS**, the State Planning Commission’s Plan Endorsement Guidelines, in Section 2 – “Regional Planning Priority”, specify that “[o]ne of the goals of the State Plan is to ensure sound and integrated planning and implementation statewide.” (The New Jersey State Development and Redevelopment Plan, 2001, Goal 8); and

**WHEREAS**, Section 69 of the Highlands Act amended the State Planning Act to provide that any “county or portion thereof located in the Highlands preservation area ... shall be exempt from the plan endorsement process established in the rules and regulations” and “[u]pon the State Planning Commission endorsing the regional master plan..., any county master plan and associated regulations that have been approved by the Highlands Water Protection and Planning Council ... shall be deemed the equivalent of having those plans endorsed by the State Planning Commission;” and

**WHEREAS**, Section 15.b. of the Highlands Act requires the Highlands Council to consult with the State Planning Commission before approving, rejecting, or approving with conditions the revised county plans and associated regulations for lands in the Planning Area; and

**WHEREAS**, on June 27, 2006, the Highlands Council wrote to the State Planning Commission's Plan Implementation Committee commenting on the Committee's draft Plan Endorsement Consistency Requirements and the Highlands Council commented that the draft Requirements should recognize the above provisions from the Highlands Act and the State Planning Act and recognize the importance and priority consideration of the Highlands Regional Master Plan; and

**WHEREAS**, this priority consideration is particularly important in the Highlands Region because the State Planning Commission's action to endorse a plan in the Planning Area may differ from the endorsement of the Highlands Regional Master Plan for the Planning Area. For example, a local plan may identify areas as appropriate for development and the Regional Master Plan may come to a similar conclusion in many cases and in other cases may identify constraints relating to water capacity, sewer capacity, or other Highlands resource constraints; and

**WHEREAS**, Section 11 of the Highlands Act requires a Coordination and Consistency Component of the Regional Master Plan and in its development of the Highlands Draft Regional Master Plan, the Council adopted a policy promoting cooperation and coordination in planning with the State Planning Commission and requesting that the State Planning Commission coordinate Petitions for Plan Endorsement in the Highlands Region with the Highlands Regional Master Plan.

**NOW, THEREFORE, BE IT RESOLVED** by the Highlands Council that it:

1. Reaffirms its policy promoting cooperation and coordination in planning with the State Planning Commission and requests that the State Planning Commission defer final action on all Petitions for Plan Endorsement in the Highlands Region until such time as the Highlands Council has adopted the Regional Master Plan.

#### **CERTIFICATION**

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 11<sup>th</sup> day of January, 2007.

  
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John Weingart, Chairman