



## State of New Jersey

Highlands Water Protection and Planning Council  
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JON S. CORZINE  
*Governor*

JOHN R. WEINGART  
*Chairman*

DANTE DI PIRRO  
*Executive Director*

## MEETING AGENDA

*Thursday, September 7, 2006 - 10:00 a.m.*

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES
6. CHAIRMAN'S REPORT (and Council Member Reports)
7. EXECUTIVE DIRECTOR'S REPORT
8. COMMITTEE REPORTS
  - a. Land Conservation Committee – Councilmember Pasquarelli
  - b. Budget and Finance Committee – Councilmember Pasquarelli
9. DRAFT RMP WORK SESSION TOPICS\*
  - a. Riparian Corridor Analysis
  - b. Highlands Open Waters Identification
  - c. Significant Natural Areas
  - d. Wastewater Treatment Infrastructure
10. ADJOURN

*\* This Council meeting will largely be devoted to the Work Session on the draft Regional Master Plan (Item #9 above) and will not include a general public comment period, but will provide opportunity for public comment on any proposed resolution before a vote is taken. Written comments will be accepted during the session. In addition, approximately 15 minutes after the adjournment of the Council meeting, members and staff will convene a Public Availability Session to solicit additional public comments.*

**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 32<sup>nd</sup> 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 14<sup>th</sup>, 2006 which will begin at 4:00 p.m. Mr. Weingart asked the members to hold October 26<sup>th</sup>, 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 14<sup>th</sup>, 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 19<sup>th</sup> meetings, and asked that an addition meeting on October 26<sup>th</sup> 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.

## White Paper

Draft for discussion at the Highlands Council Work Session of September 7, 2006

# HIGHLANDS OPEN WATERS

## I. INTRODUCTION

### *Requirements of the Highlands Act*

Among the goals of the Highlands Act are to “protect, restore and enhance water quality and quantity of surface and ground waters” and to “protect the natural, scenic, and other resources of the Highlands Region, including but not limited to contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitat for fauna and flora” (Section 10.a.).

### *Overview of Highlands Open Waters*

Highlands Open Waters are vital natural resource of the Highlands Region. As defined in the Highlands Act, Highlands Open Waters includes all springs, streams including intermittent streams, wetlands and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but shall not mean swimming pools. Highlands Open Waters are a critical public trust resource and an essential source of drinking water for the residents of the State of New Jersey. They also provide protection against floods and help to ameliorate the affects of prolonged droughts. They are also important habitat for numerous plant and animal species including many endangered and threatened in the State. They provide a wealth of agricultural, recreational and aesthetic uses for both residents and visitors alike, helping to contribute to a vibrant regional economy.

## II. APPROACH AND INITIAL ACTION

To implement this section of the Highlands Act, the Highlands Council determined to undertake an analysis of Highlands Open Waters for the development of the Regional Master Plan by taking the following actions:

- identify and map the location of Highlands Open Waters.
- categorize each Highlands Open Waters using water classifications consistent with existing State regulatory programs
- establish protection area buffers for each Highlands Open Waters category.
- evaluate the ecological integrity of Highlands Open Waters at the subwatershed level (HUC14) using a number of regional indicators of ecological integrity or impairment.
- utilize the Highlands Open Water categories and regional indicators to inform resource protection needs and land use standards.

In furtherance of this approach the Council took the following initial actions:

1. Established an inventory of Highlands Open Waters to incorporate their protection areas into the Land Use Capability Map.
2. Established "buffers" based on the following categories:
  - Highlands Waters – All Highlands Open Waters contained within the Highlands Preservation Area. They receive a 300-foot protection area buffer from each edge of the Highlands Open Water feature.
  - Special Waters – All Highlands Open Waters that drain to a Category One (C1) waters (including Trout Production [TP] waters), or are upstream of and hydrologically interconnected with a C1, TP, or Highlands Waters within the same HUC14 subwatershed. They receive a 300-foot protection area buffer from each edge of the Highlands Open Water feature.
  - Exceptional Waters– All Highlands Open Waters other than Highlands or Special Waters that drain to a FW1 waterway or include habitat for threatened or endangered species, or are upstream of and hydrologically interconnected with an Exceptional Waters within the same HUC14 subwatershed.

They receive a 150-foot protection area buffer from each edge of the Highlands Open Water feature.

- Intermediate Waters – All remaining Highlands Open Waters that are not Highlands, Special, and Exceptional Waters including waters that are hydrologically isolated from a surface water feature within the same HUC14 subwatershed. They receive a 50-foot protection area buffer from each edge of the Highlands Open Water feature.
3. Evaluated the integrity and protection needs at the subwatershed level based on the following regional indicators – Total Forest Cover, Habitat Quality, Developed Lands, and Agricultural Uses.
  4. Established land use standards based on value class. The following value classes shall be incorporated into the RMP: High Resource Value Watershed – All watersheds that contain predominantly forest lands and/or include a significant portion of the watershed as high quality habitat based on the presence of suitable habitat for rare, threatened or endangered species, and all watersheds draining to a surface water supply drinking water reservoir or potable water supply intake. Moderate Resource Value Watershed - All watersheds that may contain a high proportion of forest lands or high quality habitat but typically consist of significant levels of existing agricultural uses within the watershed. Low Resource Value Watershed - All watersheds that do not contain a high proportion of forest or high quality habitat and typically consist of significant levels of existing developed uses within the watershed.
  5. Developed strategies and standards for inclusion in the Policy Guidance Element, Land Use Capability Map and Standards, and Implementation Framework Element of the Plan. (See following section).

### III. STRATEGIES & STANDARDS

#### A. Policy Guidance Element

##### *RMP Standards*

The Policy Guidance Element of the Plan will contain standards that will provide protection for Highlands Open Waters. The standards will vary depending on which Land Use Capability Map zone they are in. The standards will include the following:

##### To protect Highlands Open Waters:

- Discourage development activities and land uses within a Highlands Open Waters Protection Area.
- Require inclusion of Highlands Open Waters Protection Area within municipal zoning and land use ordinances.
- Establish minimum requirements for development and approval of stream corridor protection and restoration plans.
- Establish minimum requirements for incorporation of Highlands Open Waters Protection Areas within municipal and County Open Space Plans.

##### To provide for Smart Design:

- Establish minimum site design guidelines and permissible uses within Highlands Open Waters:
  - a) Permissible uses within a high value area shall be limited to maintenance of pre-existing uses. No increases in pre-existing impervious area shall be permitted. Prioritization for acquisition or restoration of impaired areas shall be required wherever practical. Relief from strict adherence to Resource Protection Standards shall be permitted only within areas deemed a Special Planned Areas as approved by the Highlands Council
  - b) Permissible uses within a medium value area shall be limited to maintenance of pre-existing uses or other compatible uses that do not impair Highlands Open Waters resource value. Minimal increases in pre-existing impervious area shall be permitted upon approval of a Stream Corridor Protection Plan and program approved by the Highlands Council. Restoration of impaired areas shall be encouraged wherever practical. Relief from strict adherence to Resource Protection

Standards shall be permitted within Agricultural Development Areas or areas deemed a Special Planned Areas as approved by the Highlands Council

- c) Activities within a low value area shall encourage redevelopment of previously developed areas and allow for other compatible uses that do not impair Highlands Open Waters resource value. Increases in pre-existing impervious area shall be permitted upon approval of a Stream Corridor Protection Plan and Low Impact Development Best Management Practices program approved by the Highlands Council. Restoration of impaired areas shall be encouraged wherever practical.
- Establish minimum requirements for development and approval of low impact best development best management practices.
- Require inventory of Highlands Open Waters including the identification of headwater streams, seeps or springs, subject to review and approval of Highlands Council, as a mandatory requirement for any site plan application.

To address Regional Growth:

- Require development of regional stormwater and wetland management and mitigation plans, subject to review and approval of Highlands Council.
- Require participation in regional stormwater and wetland management and mitigation program, where applicable, as a mandatory requirement for any site plan application.

**B. Land Use Capability Map and Standards**

The Land Use Capability Map will include various overlay zones, currently called Regional Protection Zone (most environmentally sensitive), Regional Conservation Zone (middle level) and Regional Development Zone (most appropriate for development). A number of factors will be considered in determining into which zone particular land belongs. One of these factors will be Highlands Open Waters value (high, medium or low).

Regional Protection Zone: Include all Highlands Open Waters Protection Areas for Highlands or Special Waters. Include those Highlands Open Waters Protection Areas for Intermediate or Exceptional Waters that fall within a High Resource Value Watershed.

- Discourage adjustments and revisions to Highlands Open Waters Protection Area requirements except when within a Special Planned Area or within an Agricultural Development Area, as determined by the Highlands Council, and only upon demonstration that any relief of protection requirements will not impair or reduce the ecological integrity of the Highlands Open Waters.
- Prioritize acquisition, development restrictions and/or Transfer of Development Rights (TDR) credit bonuses for lands within a Highlands Open Waters Protection Area

Regional Conservation Zone: Include all Highlands Open Waters Protection Areas for Exceptional Waters. Include those Highlands Open Waters Protection Areas for Intermediate Waters that fall within a Moderate Resource Value Watershed.

- Allow for adjustments and revisions to Highlands Open Waters Protection Area requirements within a Special Planned Area or within an Agricultural Development Area, as determined by the Highlands Council, upon demonstration that the ecological integrity of the Highlands Open Waters can be maintained.
- Require stream protection/restoration plans and Low Impact Development Best Management Practices within an area designated as Special Planned Areas to mitigate and restore impacts to any Highlands Open Waters Protection Area.
- Encourage stream protection/restoration plans and Low Impact Development Best Management Practices within an area designated as Agricultural Development Area to mitigate and restore impacts to any Highlands Open Waters Protection Area.

Regional Development Zone: Include all Highlands Open Waters Protection Areas for Intermediate Waters. Including Highlands Open Waters Protection Areas for all waters within a Low Resource Value Watershed that is not a Highlands, Special or Exceptional Waters.

- Allow for adjustments and revisions to Highlands Open Waters Protection Area requirements upon approval of the Highlands Council
- Require Low Impact Development Best Management Practices for any development activity within an Highlands Open Waters Protection Area.

### **C. Implementation Framework Element**

#### Pre-Conformance Strategies:

- Develop technical guidelines for the identification and delineation of Highlands Open Waters.
- Develop technical guidelines and procedures for development of Municipal Stream Corridor Protection and Restoration Plans, Open Space Plans and for development and implementation of Low Impact Development Best Management Practices.
- Develop technical review procedures for proposed adjustments and revisions to Highlands Open Waters Protection Area requirements.

#### Conformance Strategies:

- Require inclusion of Highlands Open Waters Protection Element, stream corridor protection and restoration plans, regional stormwater and wetland mitigation/management plans, and Open Space Plans into Municipal and/or County conformance documents, Master Plans, Zoning and Land Use Ordinances, as appropriate.

#### Five Year Highlands Resource Protection and Planning Goals:

- Develop methods for continued development and refinement of Highlands Open Water Inventory with an emphasis on identification of vernal habitat, headwater streams and headwater seeps/springs.
- Develop a wetland habitat functional assessment to ensure levels of Highlands Open Waters protection requirements are appropriate to maintain existing resource value for water quality treatment, flood prevention, protection of base flows of streams and wildlife habitat.
- Continue development of a regional stream integrity model at a HUC17 level to establish protection requirements of Highlands Open Waters based on biological and water quality indicators.
- Coordinate activities among public and private entities to encourage regional restoration activities and open space acquisition strategies.
- Develop recommendations for reclassification of Surface Water Quality Standards at N.J.A.C. 7:9B for Highlands Open Waters consistent with the resource protection goals of the RMP.

#### Coordination and Consistency Considerations:

- Develop a coordinated regulatory review program with the NJDEP to ensure consistency of permit actions, open space acquisition priorities, surface water quality standards and restoration activities consistent with the resource protection goals of the RMP.
- Coordinate with NJDEP to expand Ambient Biological Monitoring Network (AMNET) to include additional stations in the Highlands Region.
- Coordinate with the New Jersey Department of Transportation, county and regional transportation planning agencies, to promote a regional program for restoration and mitigation of impacts to Highlands Open Waters attributable to Transportation Improvement Programs within the Highlands Region that are compatible with the Resource Protection goals of the RMP.

- Coordinate with the NJDEP Land Use Regulation Program to develop regional programs for management and mitigation of non-point source and wetland impacts from land development activities within the Highlands Region.
- Coordinate with the USDA Natural Resource Conservation Service and NJDA to promote Highlands Open Water Protection Area requirements and standards in Resource Management and Conservation Plans for existing agricultural uses to the maximum extent practical.
- Coordinate with the NJDEP Bureau of Forestry to develop and implement Forest Management practices that maintain and protect the resource value with Highlands Open Waters Protection Areas.

Local Participation Considerations:

- Develop educational and technical training programs for municipal officials and interested watershed organizations to promote consistent standards for the protection, restoration and acquisition of important waters of the Highlands Region.
- Develop educational and technical training program for municipal officials on Highland Open Water Protection Areas, land use standards, conservation measures and Low Impact Development Best Management Practices to minimize impacts from land development activities.
- Coordinate with municipal Environmental Commissioners and watershed organizations to encourage a comprehensive stream monitoring program within the Highlands Region.

**IV. DISCUSSION**

## White Paper

Draft for discussion at the Highlands Council Work Session of September 7, 2006

# RIPARIAN AREAS

## I. INTRODUCTION

### *Requirements of the Highlands Act*

Among the goals of the Highlands Act are to “protect, restore and enhance water quality and quantity of surface and ground waters” and to “protect the natural, scenic, and other resources of the Highlands Region, including but not limited to contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitat for fauna and flora” (Section 10.a.).

### *Overview of Riparian Areas*

Riparian areas include areas that are adjacent to and hydrologically connected to rivers and streams through overland surface runoff, inundation during floods, or subsurface flow. Riparian areas include flood prone areas, wildlife corridors, associated riparian soils, and wetland communities. Riparian areas serve as an interface between surface water bodies and terrestrial ecosystems and play a crucial role in helping to maintain the quality and ecological integrity of Highlands Open Waters. Riparian areas moderate fluctuations in water temperature, help maintain groundwater recharge and stream base flow, stabilize stream banks, and provide flood storage areas. During high flow or overland runoff events, riparian areas reduce erosion and sediment loads to surface water and remove excess nutrients and contaminants from flood water. Protection of riparian areas is critical to maintaining healthy riparian and aquatic ecosystems and protecting potable surface water supplies.

## II. APPROACH AND INITIAL ACTION

To implement the requirements of the Highlands Act, the Highlands Council determined to undertake a riparian corridor analysis and address riparian areas in the Regional Master Plan by taking the following actions:

- identify and map the location of the Riparian Areas
- identify safeguard high quality aquatic resources
- identify headwater streams, seeps and springs
- evaluate the integrity of Riparian Areas including areas where the existing land uses may have impaired the ability of the Riparian Areas to sustain ecological value
- utilize the extent and condition of the Riparian Areas to inform resource protection needs and land use standards
- include a Riparian Area assessment as one factor in the Land Use Capability Map

In furtherance of this approach the Council took the following initial actions:

- Established an inventory of the Riparian Area for the Highlands Region and incorporate its protection areas into the Land Use Capability Map. The Riparian Area includes streams and related surface water features such as lakes and ponds, wetlands that are hydrologically interconnected with a surface water feature, flood prone areas and the 100-year floodplain, riparian soils (e.g., soils that are hydric, alluvial or exhibit a shallow depth to the seasonal water table), and a wildlife corridor including lands adjacent to and within 300 feet of a surface water feature.
- Determined protection needs of the Riparian Area for each HUC14 subwatershed based on land use activities within the Riparian Area including the following land use/land cover indicators – Natural Vegetation, Water/Wetland Dependent Species Habitat Quality, Impervious Area, Road Crossings and Agricultural Uses.
- Determined value classes based on the following: High Value Riparian Area – These High Value Riparian Areas will exhibit predominantly natural vegetation including high quality habitat for water/wetland dependent species, and a generally low incidence of impervious area, agricultural uses and/or road crossings; Moderate Value Riparian Area - Moderate Value Riparian Areas contain a higher

incidence of impervious area, agricultural uses and/or road crossings and a reduced proportion of natural vegetation including high quality habitat for water/wetland dependent species; Low Value Riparian Area - Low Value Riparian Areas contain a high proportion of impervious area, agricultural uses and/or road crossings and minimal natural vegetation including high quality habitat for water/wetland dependent species.

- Developed strategies and standards for inclusion in the Policy Guidance Element, Land Use Capability Map and Implementation Framework Element of the Plan. (See following section).

### III. STRATEGIES & STANDARDS

#### A. Policy Guidance Element

##### *RMP Standards*

The Policy Guidance Element of the Plan will contain standards that will provide protection for Riparian Areas. The standards will vary depending on which Land Use Capability Map zone they are in. The standards will include the following:

##### To protect Riparian Areas:

- Discourage development activities and land uses within Riparian Areas.
- Require inclusion of Riparian Area protection standards within municipal zoning and land use ordinances.
- Establish minimum standards for development and approval of Low Impact Development Best Management Practices within a Riparian Area.
- Establish minimum requirements for incorporation of Riparian Areas within municipal and County Open Space Plans.
- Address restoration opportunities of Riparian Areas in stream corridor protection and restoration plans.

##### To provide for Smart Design:

- Establish minimum site design guidelines and permissible uses within a Riparian Area as follows: Permissible uses within a High Value Riparian Area shall be limited to maintenance of pre-existing uses. No increase in land clearing or increases in pre-existing impervious area shall be permitted. Permissible uses within a Moderate Value Riparian Area shall be limited to maintenance of pre-existing uses or other compatible uses that do not impair Riparian Area resource value. Activities within a Low Value Riparian Area shall encourage redevelopment of previously developed areas and allow for other compatible uses that do not impair Riparian Area resource value.
- Establish minimum requirements for development and approval of Low Impact Development Best Management Practices.
- Require inventory of Riparian Areas as a mandatory requirement for any site plan application.

##### To address Regional Growth:

- Require development of regional stormwater and wetland management and mitigation plans, subject to review and approval of Highlands Council.
- Require participation in regional stormwater and wetland management and mitigation program, where applicable, as a mandatory requirement for any site plan application.

#### B. Land Use Capability Map and Standards

The Land Use Capability Map will include various overlay zones, currently called Regional Protection Zone (most environmentally sensitive), Regional Conservation Zone (middle level) and Regional Development Zone (most appropriate for development). A number of factors will be considered in determining into which zone

particular land belongs. One of these factors will be riparian area value (high, medium or low), and as such, particular Riparian lands could end up in any of the zones.

Regional Protection Zone:

- Include all High Value Riparian Areas.
- Discourage adjustments and revisions to Riparian Areas protection requirements except when within a Special Planned Area or within an Agricultural Resource Area, as determined by the Highlands Council, and only upon demonstration that any relief of protection requirements will not impair or reduce the integrity of the Riparian Area.

Regional Conservation Zone:

- Include all Moderate Value Riparian Areas.
- Allow for adjustments and revisions to Riparian Area protection requirements within a Special Planned Area or within an Agricultural Resource Area, as determined by the Highlands Council, upon demonstration that the integrity of the Riparian Area can be maintained.
- Require Low Impact Development Low Impact Development Best Management Practices within a designated a Special Planned Area to mitigate and restore impacts to any Riparian Area.
- Encourage Low Impact Development Best Management Practices within an area designated as Agricultural Resource Area to mitigate and restore impacts to any Riparian Area.

Regional Development Zone:

- Include all Low Resource Value Riparian Areas.
- Allow for adjustments and revisions to Riparian Area protection requirements upon approval of a Stream Corridor Protection Plan by the Highlands Council
- Require Low Impact Development Best Management Practices for any development activity within a Riparian Area.

**C. Implementation Framework Element**

Pre-Conformance Strategies

- Develop technical guidelines for the identification and delineation of Riparian Areas.
- Develop technical guidelines and procedures for development of Municipal Stream Corridor Protection and Restoration Plans, Open Space Plans and for development and implementation of Low Impact Development Best Management Practices.
- Develop technical review procedures for proposed adjustments and revisions to Riparian Area protection requirements

Conformance Strategies

- Require inclusion of Riparian Area Protection Element, stream corridor protection and restoration plans, regional stormwater and wetland mitigation/management plans, and Open Space Plans into Municipal and/or County conformance documents, Master Plans, Zoning and Land Use Ordinances, as appropriate.

Five Year Highlands Resource Protection and Planning Goals

- Coordinate activities among public and private entities to encourage regional restoration activities and open space acquisition strategies consistent with the RMP.
- Develop regional water quality models to ensure that the waters of the Regional Conservation and Regional Development Zones allows for the protection, restoration and enhancement of water quality consistent with the goals of the RMP.

- Develop technical guidelines and procedures for development of Municipal Stream Corridor Protection and Restoration Plans, Open Space Plans and for development and implementation of Low Impact Development Best Management Practices.

Coordination and Consistency Considerations:

- Develop a coordinated regulatory review program with the NJDEP to ensure consistency of permit actions, open space acquisition priorities and restoration activities consistent with the resource protection goals of the RMP.
- Coordinate with the USDA Natural Resource Conservation Service and NJDA to promote Riparian Area resource protection requirements and standards in Resource Management and Conservation Plans for existing agricultural uses to the maximum extent practical.
- Work with the NJDEP Bureau of Forestry to develop and implement Forest Management practices that maintain and protect the resource value with Riparian Area resource protection standards.

Local Participation Considerations:

- Develop educational and technical training programs for municipal and county officials and interested watershed organizations to promote consistent standards for the protection, restoration and acquisition of important riparian areas of the Highlands Region.
- Develop educational and technical training program for municipal and county officials on riparian area land use standards, conservation measures and Low Impact Development Best Management Practices to minimize impacts to riparian areas.

**IV. DISCUSSION**

## White Paper

Draft for discussion at the Highlands Council Work Session of September 7, 2006

# SIGNIFICANT NATURAL AREAS

## I. INTRODUCTION

### *Requirements of the Highlands Act*

Among the goals of the Highlands Act are to “protect, restore and enhance water quality and quantity of surface and ground waters” and to “protect the natural, scenic, and other resources of the Highlands Region, including but not limited to contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitat for fauna and flora” (Section 10.a.).

### *Overview of Significant Natural Areas*

A Significant Natural Area represents a site or area, typically with unusual or exemplary floristic qualities (such as the presence of rare or endangered plant species) that constitutes an outstanding example of that particular resource type (such as bog, forest or geological feature). These areas include unique or exceptional examples of natural communities that possess significant biodiversity value whose regional significance are in need of protection. Significant Natural Areas typically will include exceptional ability to illustrate the natural or cultural heritage of the Highlands Region and offer excellent opportunities for education or scientific research because it retains a high degree of ecological integrity as a relatively unspoiled example of a natural community type.

## II. APPROACH AND INITIAL ACTION

To implement this section of the Highlands Act, the Highlands Council determined to undertake an analysis of Significant Natural Areas and address these lands in the Regional Master Plan (RMP) by taking the following actions:

- identify Significant Natural Areas and create protection areas of these sites include adjoining (buffer) lands which were deemed needed to ensure their continued protection.
- incorporation of these sites into the RMP and include Significant Natural Areas and their protection areas into the Land Use Capability Map.
- establish and maintain an inventory of Significant Natural Areas.
- identify appropriate land use planning and management strategies that can help preserve these sites.
- developed strategies and standards for inclusion in the Policy Guidance Element, Land Use Capability Map and Standards, and Implementation Framework Element of the RMP. (See following section).

## III. STRATEGIES & STANDARDS

### A. Policy Guidance Element

#### *RMP Standards*

The Policy Guidance Element of the RMP will contain standards that will provide protection for **Significant Natural Areas**. The standards will vary depending on which overlay zone they are in. The standards will include the following:

#### To protect Significant Natural Areas:

- Prohibit land development and alteration within an area determined to be a Significant Natural Area that is incompatible with the resource protection and management requirements.
- Require inclusion of Significant Natural Area Protection Area within municipal zoning and land use ordinances.
- Establish minimum requirements for incorporation of Significant Natural Area component within municipal and County Open Space Plans.

To provide for Smart Design:

- Natural Area Protection and Management Plan to be developed for any site or portion thereof that is a designated Significant Natural Area as a mandatory requirement for any site plan application.
- Establish minimum requirements and guidelines allowing for adjustments and revisions to Natural Area boundaries including provisions for incorporation of Low Impact Development (LID) BMPs.

**B. Land Use Capability Map and Standards**

Significant Natural Areas are, by definition, high value resources and accordingly will inform the Land Use Capability Map. The Land Use Capability Map will include Significant Natural Areas and their protection areas as part of the Regional Protection Zone.

**C. Implementation Framework Element**

Pre-Conformance Strategies

- Develop technical guidelines for the identification and delineation of Significant Natural Areas including procedures for nomination and inclusion of additional sites in Municipal Master Plans with the prior review and approval of the Highlands Council.
- Develop technical guidelines and procedures for development of municipal Natural Areas Protection and Management Plans, Open Space Plans and for development and implementation of Low Impact Development Best Management Practices.
- Develop technical review procedures for proposed adjustments and revisions to Significant Natural Area boundary delineations.

Conformance Strategies

- Require that municipal conformance approval include Significant Natural Area inventory, protection standards and approval guidelines in conformance with the RMP.
- Require inclusion of Natural Area Protection Element into Municipal and/or County conformance documents, Master Plans, Zoning and Land Use Ordinances, as appropriate.
- Require inclusion of Significant Natural Areas into Municipal and County Open Space Plans.

Five Year Highlands Resource Protection and Planning Goals

- Maintain an inventory of Significant Natural Areas within the Highlands region and develop appropriate management and stewardship strategies.

Coordination and Consistency:

- Develop a coordinated regulatory review program with the NJDEP to ensure consistency of permit actions, open space acquisition priorities and public lands management strategies consistent with the resource protection goals of the RMP.

Local Participation:

- Develop educational program for municipal and county officials on methods to identify and protect Significant Natural Areas.

**IV. DISCUSSION**

## White Paper

Draft for discussion at the Highlands Council Work Session of September 7, 2006

# WASTEWATER UTILITY TREATMENT CAPACITY

## I. INTRODUCTION

### *Requirements of the Highlands Act*

Among the requirements of the Highlands Act are to include “A smart growth component that includes an assessment, based upon the resource assessment ... of opportunities for appropriate development, redevelopment, and economic growth, and a transfer of development rights program which shall include consideration of public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management... (Section 11.a.(6)).

## II. APPROACH AND INITIAL ACTION

To implement this section of the Highlands Act, the Highlands Council analyzed the treatment capacity limitations of existing Highlands Region Domestic Sewer Facilities and their associated wastewater service areas (both existing area served and full sewer service areas) to estimate the amount of wastewater utility treatment capacity potentially available for redevelopment and regional growth opportunities. The RMP seeks to identify where development and redevelopment can be reasonably accommodated within the Highlands Region within available treatment capacity limitations and without harm to ecological and water resources.

The analysis would include the following actions:

- identify areas currently served by existing wastewater facilities
- identify the full wastewater service areas for these facilities
- determine available treatment capacity for facilities that have the ability to support some level of regional growth or redevelopment
- determine areas where the projected redevelopment and development treatment capacity demands may exceed the available capacity of these facilities
- identify appropriate wastewater service areas consistent with regional growth or redevelopment areas that have a projected wastewater treatment demand consistent with existing treatment capacity limitations
- evaluate the potential or limitations for future expansion of wastewater treatment capacity based on existing water quality concerns and other limitations, and through the control of infiltration and inflow

In furtherance of this approach the Council took or will take the following initial actions:

- Identified Highlands Domestic Sewer Facilities that have the potential to service regional growth or redevelopment opportunities within the Highlands Region.
- Estimated the Available Wastewater Treatment Capacity for each Highlands Domestic Sewer Facility that may be available to support regional growth or redevelopment opportunities within the Highlands Region.
- Allocated Redevelopment Treatment Capacity within Existing Areas Served by a Highlands Domestic Sewer Facility to ensure there is adequate treatment capacity to encourage appropriate redevelopment opportunities or TDR Receiving Zones.
- Establish Highlands Wastewater Sewer Service Areas that incorporate that portion of a Proposed Service Area served by existing Highlands Domestic Sewer Facilities that are appropriate to serve as regional growth or redevelopment areas, and have sufficient treatment capacity to service projected wastewater treatment demand (through the RMP).
- Identify potential Future Wastewater Treatment Expansion Areas served by existing wastewater treatment facilities within the Highlands Region (through the RMP).

- Developed strategies and standards for inclusion in the Policy Guidance Element, Land Use Capability Map and Implementation Framework Element of the Plan. (See following section).

### III. STRATEGIES & STANDARDS

#### A. Policy Guidance Element

##### *RMP Standards*

The standards for the protection of Wastewater Utility Treatment Capacity will include the following types of standards:

##### To protect Highlands resources:

- Prohibit construction of sewer lines within Tier 1 of Well Head Protection Areas that may result in seepage of untreated sewage into ground water supplies.
- Prohibit expansion of a future sewer service area within critical natural resource areas in any LUCM zone, including the Highlands Preservation Area.

##### To provide for Smart Design:

- Require use of water conservation devices for any redevelopment or development activity including renovations to existing single family residences and commercial/industrial buildings.
- Incorporate standards for mandatory inspection of new or existing single family residences or commercial/industrial development to prevent non-wastewater inflow to wastewater collection systems.

##### To address Regional Growth:

- Require adoption of an approved wastewater management plan or amendment to an existing plan substantially consistent with the Highlands Service Area included in the RMP.
- Require minimum development standards for residential properties served by wastewater treatment facilities at a density greater than or equal to than 2 dwelling units per acre, and equivalent commercial and business Floor to Area Ratios (FAR) to ensure cost-effective utility service.
- Prioritize allocation of available wastewater treatment capacity within TDR Receiving Zones adopted by a municipality and approved by the Highlands Council.

#### B. Land Use Capability Map and Standards

The Land Use Capability Map will include various overlay zones, currently called Regional Protection Zone (most environmentally sensitive), Regional Conservation Zone (middle level) and Regional Development Zone (most appropriate for development). A number of factors will be considered in determining into which zone particular land belongs. For wastewater treatment capacity, the Land Use Capability Map will include the following standards for the following three zones:

##### Regional Protection Zone:

- Prohibit provision of wastewater treatment collection systems beyond Existing Areas Served within the Regional Protection Zone, including the Highlands Preservation Area, except for those areas identified in the RMP to be a Special Planned Area, projects that are exempt from the Highlands Act, or areas required to be served to address a clear and imminent threat to public health, as determined by the Highlands Council in consultation with the NJDEP.

##### Regional Conservation Zone:

- Allow for the provision of wastewater collection systems within and immediately adjacent to Existing Areas Served within the Regional Conservation Zone to serve areas identified in the RMP to be a

Special Planned Area, or an area required to be served to address a clear and imminent threat to public health as determined by the Highlands Council in consultation with the NJDEP.

- Discourage compact development in areas that are not served by Highlands Domestic Sewer Facilities.

#### Regional Development Zone:

- Prioritize allocation of existing wastewater treatment capacity to Special Planned Areas or Regional Growth Areas that can accommodate TDR Receiving Zones.
- Allow for the expansion or provision of wastewater collection systems adjacent to Existing Areas Served to serve areas identified in the RMP to be appropriate for Regional Growth, or an area required to be served to address a clear and imminent threat to public health as determined by the Highlands Council in consultation with the NJDEP.

### **C. Implementation Framework Element**

#### Pre-Conformance Strategies

- Submit the Highlands Wastewater Service Area mapping to NJDEP for review as a basis for review of subsequent wastewater planning and treatment works approvals.
- Develop guidelines to incorporate appropriate Highlands Preservation Area exemptions or prior-approved projects into the Highlands Wastewater Service Area map.
- Develop guidelines in consultation with NJDEP regarding standardized procedures for preparing Wastewater Management Plans.
- Obtain Governor's designation establishing the Highlands Council as the designated water quality planning agency for the Highlands Region.

#### Conformance Strategies

- Require that municipal conformance approval include an approved wastewater management plan that conforms with NJDEP rules and is consistent with the Highlands Wastewater Service Area identified in the RMP.
- Allow for adjustments and revisions to Highlands Wastewater Service Area to include Redevelopment Areas, projects deemed exempt from the requirements of the Highlands Act, areas that obtained final subdivision approval and Treatment Works approval prior to the effective date of the Act, or areas that possess an imminent threat to public health upon demonstration that the critical natural resources of the Highlands will be maintained.

#### Five Year Highlands Resource Protection and Planning Goals

- Coordinate efforts with NJDEP and wastewater utility authorities to develop standardized water quality models to evaluate the assimilative capacity of waters that receive wastewater discharges consistent with TMDL requirements established by NJDEP.
- Coordinate with and facilitate NJDEP review and approval of wastewater management plan amendments for proposed service areas that are consistent with the Highlands Wastewater Service Areas identified in the RMP.

#### Coordination and Consistency Considerations:

- Develop a coordinated program with the NJDEP to track ground water and surface water discharges within the Highlands Region and maintain current estimates of available capacity.
- Develop a coordinated monitoring program with the NJDEP and the USGS to identify water quality concentrations related to surface water effluent discharges.

- Develop a coordinated regulatory review program with the NJDEP to ensure consistency of domestic treatment works approvals and wastewater management plans with the resource protection and smart growth provisions of the RMP.
- Develop technical guidance with the NJDEP to promote water conservation measures in Highlands municipalities and in municipalities supplied with Highlands water.

Local Participation Considerations:

- Develop educational program for municipal officials on water conservation measures and methods to control infiltration and inflow to maximize available wastewater treatment capacity.
- Develop training and educational program for municipal and county planning board and environmental commissioners on methods for using the Regional Master Plan to develop updated wastewater management plans.

**IV. DISCUSSION**

## **NEW JERSEY HIGHLANDS COUNCIL SUMMARY OF THE PUBLIC AVAILABILITY SESSION - SEPTEMBER 7, 2006**

At 4:15 pm on September 7, 2006, immediately following the meeting of the Highlands Council, Chairman John Weingart convened a public availability session. Joining him were Council members Debbie Pasquarelli and Janice Kovach. Also present were several members of the Council staff including Tom Borden and Denise Guidotti. About a dozen members of the public were present including five who offered comments which are summarized below.

**Eric Stiles**, Audubon Society. Mr. Stiles provided two separate comment documents for the Council's consideration on the topics of Riparian Corridors and Significant Natural Areas. He stated that 600 foot buffers should be considered by the Highlands Council for the protection of a wildlife corridor. This approach was taken by the Pinelands Commission for the Tom's River study area based upon the recommendation of the scientific community.

**Julia Somers**, Highlands Coalition. Ms. Somers said when asked by the press about the just-concluded Council meeting, she said she thought the Council had done a good job of starting the difficult task of regional planning. She stated she believed the Council needs more meetings to get the plan done in time. She said Highlands Open Water and the policy decision process were the only issues discussed. She suggested to include the wording "shall not degrade water." She cited that in the Highlands Act the goals are the same for both Planning and Preservation Areas, specifically pointing to section 10.b.1 and 10.c.1. She noted the division of water into three categories and suggested that the Council should instead treat all open waters in the entire region as a whole in that all waters should receive a minimum buffer of at least 300 feet of each edge. Ms. Somers added that if the Council is going to protect wildlife it really should be set with at least a 600 foot buffer. She didn't believe that 150 and 50 foot buffers are sufficient.

**Helen Heinrich**, New Jersey Farm Bureau. Ms. Heinrich commented about the agricultural side of the Highlands rules. She said the Bureau has submitted some comments on buffers and that it may add more to these comments. She noted concern over the rigid 300 foot buffer in the white papers and background papers. Every 300-foot buffer is more than an acre of land. If the Council increases from that, it will be thousands of acres added. Ms. Heinrich said that farmers don't have a lot of options as to changes in their agricultural practices. The size of buffers is a big concern because they have been taught to believe that it is a site specific issue. Turning cropland into buffers is a major concern. She stated that there are million of dollars of federal funding that may be put at risk if stringent riparian buffer requirements are put in place. She stated the alarm over requirements making it difficult to be eligible for federal programs because if a municipality follows up on the Highlands plan, it may make them ineligible for those programs. She noted that forested farm acres also have to be addressed. Ms. Heinrich said the Bureau is hoping there can be flexibility and that a sliding scale of buffers from high quality waters to lower quality waters is essential. The Council should help with outreach to meet objectives. She stated the need to find money to pay for all these additional lands that will be in the buffers. She congratulated the Council for taking on a very tough job.

**Scott Olson**, Byram Township. Mr. Olson commented on the meeting materials, and their availability on the website. He noted that when the Council discusses background papers that weren't released in advance of meetings, it is hard for the public to follow. He said he would like to see on the web site tie-ins as to what documents relate to what item on the agenda, and have them appear several days before each Council meeting if possible. He also said that some people have said they don't know where the maps are located on the website. Mr. Weingart thanked him and agreed that the Council members would also appreciate getting the documents sooner. Ms. Pasquarelli agreed and said that it could be helpful if instead of the usual practice of sending out all

of the documents in one package to members, that staff could at least send members the minutes first, and then subsequent documents as they become completed.

**Nancy Chambellan.** Ms. Chambellan asked that the Council use caution as to relying on Category C1 classifications of stream protection. She noted that relying upon these classifications is inadequate because many round-two candidates for C1 classification still remain stalled in Warren County.