

MINUTES

NEW JERSEY HIGHLANDS COUNCIL MEETING OF JUNE 2, 2005

PRESENT:

JOHN WEINGART	)	CHAIRMAN
KURT ALSTED	)	COUNCIL MEMBERS
TRACY CARLUCCIO	)	
LOIS CUCCINELLO	)	
TIM DILLINGHAM	)	
JANICE KOVACH	)	
MIKAEL SALOVAARA	)	
MIMI LETTS	)	
DEBBIE PASQUARELLI	)	
JACK SCHRIER	)	
BEN SPINELLI	)	
EILEEN SWAN	)	
SCOTT WHITENACK	)	

ABSENT:

GLEN VETRANO

The following are the minutes from the New Jersey Highlands Council meeting which was held at Warren County Technical School, 1500 Route 57, Washington, New Jersey on June 2, 2005 at 4:00 p.m.

CALL TO ORDER:

The Chairman of the Council, Mr. John Weingart, called the eleventh meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:15 p.m.

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.

ROLL CALL: The members of the Council introduced themselves.

PLEDGE OF ALLEGIANCE was then recited.

COUNCIL MINUTES (MAY 19, 2005 meeting):

Ms. Janice Kovach made a motion to approve, Ms. Debbie Pasquarelli seconded the motion, all were in favor, and the minutes of May 5, 2005 were APPROVED.

CHAIRMAN'S REPORT:

Chairman Weingart advised the public that the Highlands Council has been holding its meetings on location throughout the seven Highlands Counties in an effort to reach out to the public.

Mr. Weingart then advised that pursuant to the Highlands Act, the Highlands Council is required to be a 15 member Council. He noted that the Governor will be submitting in June candidate Val Huttie of Bergen County for consideration for the 15th seat. Mr. Weingart then introduced Ms. Debbie Pasquarelli from Greenwich Township as host and noted that she provided the official Greenwich Township gavel for use at the meeting.

Ms. Pasquarelli welcomed the public and noted Warren as her home County. She advised that she sits on the Warren County Planning Board. Warren County comprises less than 2% of the state's population and is primarily rural and agricultural land. The Warren County culture is farming and agriculture. She said that Warren has seen a moderate level of growth over the last ten years. The residents in Warren have overwhelmingly approved and supported the preservation of land.

Ms. Pasquarelli advised that Mr. David Dech of the Warren County Planning Department would give a presentation that outlines plans for future land preservation in Warren. Ms. Pasquarelli noted that she has been active in the planning process and strategic growth plans of the 22 municipalities in Warren. Warren County's plan will maintain rural lands and protect water quality and quantity. Many of Warren's municipalities had developed preservation strategies prior to enactment of the Highlands Act.

Mr. Weingart asked if any other members had reports, and since none did, he turned the meeting to Mr. Adam Zellner for the Executive Director's report.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Zellner apologized for any inconvenience since the meeting location was originally scheduled to be held at Pequest. He advised that the Chester office has obtained two interns, Mr. Andrew Szwak and Mr. Anthony Cortese.

Mr. Zellner advised that the Highlands Council's new website is up and running at the same web address.

Mr. Zellner noted that travel reimbursement forms were contained in the members' packets, as well as a list of all the meeting locations to date for the members' convenience. He advised that the members would also find a copy of the power point

presentation given by Morris County at the Council's last meeting in Parsippany on May 19th.

Mr. Zellner reported that the three partnership meetings held in May were successful and well attended. He thanked Mr. Geoff Knapp for conducting the Rutgers bus tour of the Highlands.

As a matter of follow up to prior Council requests for information, Mr. Zellner noted that Mr. Dante Di Pirro would update Mr. Jack Schrier regarding Fast Track.

Mr. Di Pirro advised that the Natural Resource Committee has begun consideration of repealing the Fast Track Law. The Committee is reviewing the law's impact on the Highlands Council in performing its functions and development of the Highlands Regional Master Plan. The Committee will continue to meet in order to discuss a number of issues and will then report back to the full Council over the next few meetings.

Mr. Zellner noted that regarding the Council's request for further details regarding municipalities opting in or partially opting in to conformance with the Highlands Regional Master Plan, he turned to Mr. Tom Borden.

Mr. Borden reported that the legal analysis has begun regarding planning area towns that decide to come into conformance with the Highlands Regional Master Plan. Mr. Borden noted that he is formulating a legal analysis for the Plan Draft Committee to review and the Committee will then brief the full Council.

Mr. Zellner noted that the second phase of Master Plan scoping has begun, and that Mr. Steve Balzano would now report on the Technical Advisory Committees or "TACs".

Mr. Balzano reported that much interest has been received from technical organizations wishing to participate on the 18 TACs, and that during the week of June 20th meetings will commence.

Mr. Balzano noted that Council staff has initiated a partnership pilot project with key strategic municipalities to develop implementation strategies. Two communities in Warren County, Greenwich and Washington Borough, have expressed some interest in participating.

Mr. Weingart then turned the meeting to the first presenter, Mr. David Dech from the Warren County Planning Department. Mr. Dech has been with the Planning Department for 17 years.

PRESENTATION (Warren County Planning Department):

Mr. Dech thanked Chairman Weingart and the members of the Council for inviting him. He then gave a power point presentation.

Mr. Dech noted that Warren County is 365 square miles in area, with a total population of 102,437. He said the population in 1960 was 63,220, which represents an increase in population of approximately ten thousand residents per decade. Mr. Dech advised that 42% of the population of Warren County works in Warren and that 18% work in Morris, and 5% work in Pennsylvania.

Mr. Dech advised the major highways in Warren are I-80 and I-78, State Highways 46, 94 and 22, Routes 31 and 57, and County Routes 519, 521 and 517. The Warren County freight lines are the Norfolk Southern Main Line, Washington Secondary and Bel-Del. There is local NJ Transit bus service in Phillipsburg and Hackettstown as well as a Route 57 shuttle service. Warren County also has a private commuter bus service on I-80 and I-78 as well as the Boonton line with its final stop in Hackettstown. There are two airports, one in Blairstown and Mansfield in Hackettstown for single engine airplanes.

Mr. Dech reported there are six major sewage treatment centers in Warren County: Phillipsburg, Washington, Hackettstown, Belvidere, Oxford and Allamuchy.

As to historic resources in Warren, Mr. Dech stated there were 9 registered historic districts and sites including Shippen Manor in Oxford, and the Morris Canal portions which are owned by Warren County in Phillipsburg parallel with the Route 57 corridor. Mr. Dech advised there has been County effort to preserve the canal through acquisition and through development review process. Warren County owns approximately 1/3 of the Morris Canal. Mr. Dech noted that Warren County hosts tours of the Morris Canal for the public twice a year.

Mr. Dech advised that in Warren the agricultural soils make up 80,000 acres for farming. Of these soils, the prime soils are in the Musconetcong and Delaware River watersheds.

In Warren County the Preservation Area consists of 67,000 acres or 105 square miles, the Planning Area is 104,000 acres or 163 square miles, totaling 232,000 acres or 363 square miles.

Mr. Dech then offered the following breakdown of the Preservation and Planning areas in Warren County.

Preservation Area:

14% agricultural
41% forested
12% developed
28% preserved

Planning Area:

31% agricultural
26% forested
20% developed
15% preserved

Land outside the Highlands:

11% agricultural
34% forested
11% developed
39% preserved

The Preservation Area:

2,500 acres farmland
13,500 acres public open space
2,500 acre private/public open space
27.6% Preservation Area preserved

The Warren County planning area is 7,200 acres of farmland, 7,900 acres public open space, of which 14.5% is preserved.

Mr. Dech advised that the Open Space Trust Fund was instituted in 1995 and collects \$6 million annually for land preservation programs.

As to growth projections made in the year 2000, Warren County had a population of 102,437 and it was estimated that by the year 2020 Warren could have a population of 126,798. Since 1997, 450 housing units were proposed for the preservation area and 4,860 of the proposed housing units are in the planning area. 100,000 square feet of commercial space is proposed for the planning area.

Mr. Dech noted there are four development projects totaling approximately 1,000 dwelling units for the planning area in Warren County. Planning Areas 1 and 2 are in Southern Warren County, and the balance of Warren is in Planning Areas 4, 4B and 5 which are environmentally sensitive areas.

Mr. Dech noted the purpose of the strategic plan is to provide policy guidance for future growth, preservation and transportation in Warren County.

Mr. Dech advised that Warren formed a steering Committee with municipal officials and public members as well as focus groups to study NJGS nitrate dilution. The model utilized was modeled at 2 mg/l and 10 mg/l standards. Based on the soils in the model, Countywide lot sizes ranged from 3.2 to 6 acres per system. Alternate waste systems were also examined for 1 to 1.5 acres lots. Mr. Dech further advised that all of Warren County potable water is drawn from groundwater wells.

Mr. Dech noted that most public community wells in Warren County are in the planning area. Warren recommended a water fee on end users, water conservation measures, and a stable source of funding for land preservation.

Mr. Dech said that Warren County advocates expanding transit services such as the Raritan Valley Line and the Lackawanna cutoff to the Poconos which has been receiving support. There is a new proposed transit service also being analyzed.

For possible redevelopment, Warren County is looking at the brownfield site of Ingersoll in Phillipsburg, where developers are looking to utilize the location.

The Warren County Planning Board is scheduling voting on Warren's plans at its June meeting and is still working on an open space plan striving to update it since it is from 1999.

Mr. Dech finished his presentation and thanked the Council for giving him the opportunity.

Ms. Pasquarelli asked with regard to the planning area in Warren, whether the number of units he spoke of are based on are already approved or if they were proposed units. Mr. Dech replied that his numbers were based on approved development, or completed units, via subdivision for example.

Mr. Weingart then introduced Ms. Lynn Brass-Smith to present regarding the DEP rules which were mandated by the Highlands Act to be adopted. The council has 45 days to review and then make recommendations to the DEP. He noted that a public meeting was held the night before to hear public comment and concerns about the rules.

PRESENTATION (DEP Highlands Rules):

Ms. Lynn Brass-Smith gave a power point presentation. The presentation gave an outline of the rules but would not interpret nor give opinion on the rules.

She noted that the DEP was mandated to write the rules and implement them, and that the Council is working parallel with the DEP now to give its input for the purpose of reproposing the rules.

Ms. Brass-Smith advised that the rules are 241 pages, and are available on the DEP website. She stated that the rules only apply to the Highlands preservation area. Ms. Brass-Smith noted that the rules are very detailed, and consist of 13 Subchapters.

Ms. Brass-Smith stated that Subchapter 2 lists 17 exemptions, where the rules are very explicit in defining what types of projects are exempt. Exemption number one gives exemption to single family homes that were already in existence before the Act.

As to preservation area standards, Ms. Brass-Smith said Subchapter 3 contains the heart of the rules, and outlines the minimum standards for development in the Highlands preservation area.

She noted with regard to existing water allocation permits, that the DEP may reduce the approved water allocation to eliminate any unused area.

Ms. Brass-Smith outlined the standards for new individual subsurface disposal systems that discharge less than 2,000 gallons per day.

One limit on new Highlands major development is the requirement that no more than 3% of the development is for impervious surface. If you have currently 1% of impervious surface, then you can add 2%.

Ms. Brass-Smith said on slopes greater than 10% in forested areas, no HPAA will be issued by DEP (Highlands Preservation Area Approval).

Ms. Brass-Smith then concluded her presentation and informed the members and the public that a copy of her power point presentation was available at the sign-in table.

Chairman Weingart thanked Ms. Brass-Smith for her presentation and then asked if any members had any questions the rules. Since none did, he then opened a public comment period at 5:30 p.m.

PUBLIC COMMENTS:

Tom Dallessio, Regional Plan Association. Mr. Dallessio advised that RPA will conduct with NJ Future and other organizations a symposium at 6:00 p.m. at the Morris County Cultural Center. He advised that he provided materials about the symposium which were available on the back table, including the agenda and sign-in sheet. Mr. Dallessio then noted that on June 23rd a keynote address for the Mayors Institute regarding design and planning issues was taking place at Princeton University. The Mayors of Oxford and Prospect Park will be in attendance, and both participate in the TDR program.

Laurel Altman, Pohatcong Township. Ms. Altman asked about the statistics from Warren County Planning Department. She thought the number of proposed development units was low, because in Pohatcong alone there are 1100 proposed units. She said that the COAH development has center designation. Ms. Altman is concerned that state policies have created negative results and is concerned that the planning area is much larger than the preservation area. With regard to an article in the Express Times, Ms. Altman referenced a statement for the need to put 440 units, or 7 per acre, on a property in Pohatcong. She noted that preemptive high density zoning is a good idea according to the article in the paper. She said that no one has refuted this point because the developer believes that the law is requiring this.

Johnny Cash, Independence Township, planning area. Mr. Cash said his farm does forestry service. He said he attended the Council meeting in Sussex and spoke about the flooding on his property. He stated the Petersburg Coalition of Property Owners have met to discuss the issue of flooding. Mr. Cash provided the Council with photos of his farm and the effects of flooding on the farm. The flooding in the planning area has been

extensive and extremely destructive, and is caused by floodwater coming from the core area. He also provided the Council with documentation and a report. He has already met with Geoff Knapp.

Mitch Gutu, Independence Township. Mr. Gutu is an upland neighbor of Mr. Cash. He noted that too many new wells on Asbury Road are causing the problems with flooding.

Mr. Dillingham asked if Mr. Borden could later offer some clarification regarding the Highlands Act mandating growth.

Andrea Hayde, Franklin Township. Ms. Hayde advised that she has heard that politicians are saying the Highlands Act is no good because it's going to force growth into the planning areas and wanted to know if this was true.

Mr. Weingart said her question relates directly to what Mr. Dillingham just mentioned needed clarification. Once the public comment session ends, Mr. Weingart said that her question would be answered.

Ann Harden. Ms. Harden asked whether the Council could conduct a seminar to educate the public because many people do not understand how the Act applies to them.

Janet Revo. Ms. Revo asked if an individual or landowner is contemplating building, who can homeowners and farmers hire that would be experienced with Highlands building. Mr. Weingart noted that since the Council is a government agency, it could not recommend private builders.

Mr. Zellner asked Ms. Revo to please call the Chester office first for guidance regarding the Highlands Act. The Council has a knowledgeable staff and are there to assist free of charge.

Marian Harris, Morristown Historic Preservation Trust. Ms. Harris urged the Council staff to find and hire someone knowledgeable in historic preservation. She said that many historic areas are yet to be determined and hopes the Council has staff to address.

Mr. Whitenack noted that Ms. Harris is very active in historic preservation and mentioned that she is a key member of the Morristown Historic Preservation Trust.

Guana Munos, Lebanon Township. Ms. Munos is a Weichert agent. She asked when the 25 acre rule would take effect. Mr. Weingart advised that DEP already enacted the rule and that it was in effect. Ms. Munos then asked if a property lot has been subdivided since 1970 whether it could be developed. Mr. Borden replied that it could. Ms. Munos said she has many questions and asked who to call. Mr. Zellner asked Ms. Munos to provide him with her business card and that the staff could contact her.

Mr. Weingart then turned the meeting to Mr. Borden who would address clarifying the forced growth issue on planning areas and what the impacts are.

Mr. Borden said the Council is obligated to design a Regional Master Plan by June, 2006. He stated that there is no growth mandate anywhere in the Act. He offered that a cause of some confusion is that there is an obligation in the Act for the Council to identify receiving areas, which comprises a 4% goal, but it is not mandated that any town accept it. He further stated that a receiving area has to have the potential for growth.

Mr. Zellner noted that a town in the planning area has the right to do whatever it feels is necessary to change its plans, ordinances, zoning, etc., but that has nothing to do with the Act.

Ms. Hayde thanked Mr. Zellner and Mr. Borden for clarifying.

Ms. Pasquarelli added that there are linkages in the law with other state agencies that could, in effect, through the State Planning Act and the COAH regulations, result in instances where a municipality would have to choose between COAH certification or accepting some growth. Mr. Zellner advised that the staff is working with COAH to discuss preexisting obligations.

Mr. Spinelli noted that municipalities in planning areas should examine what they desire for their future, so that if a town doesn't desire future growth, it needs to take a hard look at its future now.

Mr. Whitenack noted that it is confusing because of the fact that the Act asks the Council to "identify" receiving areas which could be putting the Council in conflict with municipalities. Ms. Letts suggested that Mr. Zellner and the staff put together a brief write up for the website so that people can see what is happening.

Mr. Zellner advised that as of today the new website is on line and has abstracts posted. He further advised that next Tuesday the staff will be meeting with the State Planning Commission and COAH.

Mr. Dillingham asked whether there was an analysis on linkages on the website. Mr. Zellner responded that was correct, but that cross-acceptance and how the rules interact with each other however, continues to be a work in progress.

Mr. Weingart then turned the meeting to Mr. Dillingham for the first committee report.

COMMITTEE REPORTS:

Mr. Dillingham reported that the **Natural Resource Committee** has been analyzing the DEP rules and has had a series of meetings which focused on how to effectively advance the goals of the Highlands Act. He advised there was a meeting last night, where approximately 40 people came to discuss their concerns and asked for clarification about the rules. The Committee meetings are all posted on the website and are all open to the public. The next meeting will be held on June the 9th and 16th. The Committee will be

providing a series of comments and recommendations to the DEP. Mr. Dillingham also advised that Ms. Brass-Smith noted that there are some places in the rules where the Council has an immediate opportunity to advance concerns with technical processes. The Committee has also addressed the idea of how scenic attributes are addressed in the rules. Lastly, the Committee has created a subcommittee to discuss agricultural issues. The subcommittee is Chaired by Mr. Kurt Alstede. There are specific agricultural needs, as the focus on agriculture is very large. Mr. Alstede, Ms. Pasquarelli, Mr. Spinelli and Ms. Swan make up the Subcommittee. Mr. Dillingham noted that comments received at the meeting last night will be distributed to the Council and to the DEP. He noted that the Forestry Association provided written comments to the Committee.

Mr. Zellner said the comments received will need to be approved by different associations such as the Farm Bureau.

Ms. Pasquarelli then reported on the **Budget and Finance Committee**. Ms. Pasquarelli reminded, as Mr. Zellner noted earlier, that there was a meeting last week of the Budget and Finance Committee. The Committee reviewed primary issues such as status of expenditures for Fiscal Year 2005 since it is ending on June 30th. Ms. Pasquarelli noted that in developing the regional master plan next year, there will need to be resources to fund experts. The Committee discussed staffing and how it relates to the budget because the Council office is not fully staffed to the designated head count. Ms. Pasquarelli noted that the Committee will make a recommendation over the next month.

Ms. Cuccinello, Chair of the **Interagency Committee** reported that the Committee is planning to meet the following week. She asked if the Council would be sending staff to the NJ Association of Counties in Atlantic City the week of June 20th as well as to the League of Municipalities in Atlantic City the week of June 13th.

Ms. Cuccinello stated she is also concerned regarding the potential expansion on the Picatinny Arsenal site as in whether new residential units will be necessary to house the people coming in to work there. She asked if the Council staff could monitor and work with the Federal Government to make sure the impact is minimal.

Mr. Zellner advised that the staff we will be at both the County and the League conventions in Atlantic City, but since the sign up for space at the County event occurs twelve months in advance, staff had to borrow space. He further noted that the staff would be monitoring the Picatinny site.

Mr. Schrier noted with regard to commercial space on the property, that it is finite and fixed, and that the enhancements of Picatinny could be not be expanded.

Mr. Weingart then opened a second public comment period.

PUBLIC COMMENTS:

Andy Kim, Vice-President of the NJ Forestry Association, also on the Byram Township Planning Committee, and Forester. Mr. Kim stated he received a stewardship from the state for fine practices. He stated that there is a perception that the Legislation is not based on scientific methodology. He noted that the DEP rules take liberties in their upland forest definition. Mr. Kim said the rules also don't address the forestry community sufficiently. Mr. Kim is concerned about funding being sufficient for preservation because costs will increase in the future. He asked the Council to consider utilizing foresters on its committees such as NJ Forest Service.

Mr. Weingart stated that the Council is setting up a Technical Advisory Committee to focus on forestry issues and will take his suggestion into consideration.

Ms. Swan noted that the Council will also look at new sources of funding and is proactively working on those issues.

David Ennis, Pohatcong Township. Mr. Ennis works with Pohatcong Township and the landowners as a consultant regarding preservation efforts. He noted as they plan for the future of farms, they are involved in dividing properties to give to their children and question how the Act applies to people who are on the cusp of the Act. He wanted to know who governs decisions regarding dividing properties. Mr. Borden responded that as to properties in the planning area, it falls on the municipality. Properties in the preservation area, are governed by the DEP standards as well as municipal standards. Mr. Ennis asked whether a property owner could split a 100 acre property into two fifty acre lots for his children.

Mr. Weingart asked Mr. Ennis to stay and discuss his property questions with the Council staff.

Dennis Svejda, Sierra Club. He stated he has concerns with the DEP Highlands rules. He appreciates Mr. Dillingham's work and that of the Committee for accepting extensive public comments at the open public Committee meeting the night before. Mr. Svejda said he wished to encourage the Council to offer the DEP all the comments received, not just positive ones.

Nancy Chambellin, Hope Township. She noticed three town centers on Mr. Dech's presentation, and that one of the areas is in bobcat territory. Ms. Chambellin noted the entire township is in the planning area. She asked how there can be a town center in the planning area when it is prime bobcat territory. Hope Township is one of the top ten endangered historic sites in the State, and Ms. Chambellin has great concerns over Hope being in the planning area.

David Shope, Long Valley. Mr. Shope stated he went to the Pequest Fish Hatchery which is a Division of the DEP. He said that 6,000 gallons of water per minute are drawn from the aquifer to feed the hatchery. He said that amount is equal to a water usage of

145,000 people. The water which is drawn from the aquifer then flows through the hatchery, and then out into the Delaware and is lost.

Wilma Frey, Highlands Coalition. Ms. Frey said Ms. Susan Dickey was present but had to leave early, and wanted to speak about the Warren County Freeholder plans to send a written communication to the Council regarding the Musconetcong River and the need to preserve it. She said Ms. Dickey was the founder of the Musconetcong Preservation Society. Ms. Frey noted there is a bill in Congress and the Senate to designate the Musconetcong as scenic and historic for preservation. She hopes the Council recognizes that almost the entire Musconetcong is in the planning area.

Bob Belstrom, Hope Township. Mr. Belstrom is happy he is in the planning area. Mr. Belstrom said that he is glad the Council is creating a plan, and thinks mapping will be critical. He'd like to see more elaborate details with regard to the planning area. He asked if Townships will decide on development. Mr. Weingart responded that there is nothing in the Act which requires municipalities to accept development, but there are linkages which Ms. Pasquarelli spoke about previously. Mr. Zellner noted that the Council and staff will be blind to the line when formulating the Regional Master Plan. Planning area towns have the option of whether they ultimately opt-in to the plan.

Jerry Kern, Pohatcong. Mr. Kern owns 70 acres in the preservation area. He asked if the Highlands Act is about protecting water, why there aren't provisions to conserve water in the Act. He feels forced into selling his land and is not satisfied with what he is being offered. Mr. Kern believes a premium price should be paid to people who are being asked to sacrifice their land.

Mr. Weingart noted that the next Council meeting is on June 23rd at 10:00 a.m. at Ramapo College in Bergen County.

ADJOURN:

Mr. Schrier made a motion to adjourn, Ms. Kovach seconded, and the meeting ended at 7:00 p.m.