



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 14, 2006 - 4:00 p.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. Historic Resources
 - b. Scenic Resources
 - c. Financial Component
 - d. Significant Natural Areas
 - e. 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 14, 2006

PRESENT:

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

ABSENT:

ELIZABETH CALABRESE
JANICE KOVACH
GLEN VETRANO

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

CALL TO ORDER:

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

ROLL CALL: The members of the Council introduced themselves.

PLEDGE OF ALLEGIANCE was then recited.

OPEN PUBLIC MEETINGS ACT:

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

MINUTES OF SEPTEMBER 7, 2006:

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

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

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

CHAIRMAN'S REPORT:

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

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

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

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

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

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

EXECUTIVE DIRECTOR'S REPORT:

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

COMMITTEE REPORTS:

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

DRAFT RMP WORK SESSION TOPICS:

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

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

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

Significant Natural Areas:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GOVERNOR JON CORZINE ADDRESS TO THE COUNCIL:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Significant Natural Areas (continued):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Historic and Cultural Resources:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Scenic Resources:

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

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

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

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

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

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

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

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

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

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

DINNER BREAK:

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

Financial Component:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Wastewater Treatment Infrastructure:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ADJOURN:

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

Policy Consideration: **Historic and Cultural Resource Protection Requirements**
Status: **For Consideration by the Highlands Council at**
September 14, 2006 Work session
Date: **September 12, 2006**

I. STAFF POLICY RECOMMENDATIONS

1) **Historic and Cultural Resources** will be included in the Regional Master Plan (RMP) to protect the historic resources of the Highlands Region and to protect and maintain the essential character of the Highlands. An inventory of **Historic and Cultural Resources** shall be established and maintained.

Rationale: The Highlands Act includes specific goals to preserve historic sites and historic resources in the Highlands Region. Sections 10.b.(4) and 10.c.(4). Section 11 of the Act requires a Resource Assessment in order to evaluate the “scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources.” Section 11.a.(1)(b). To implement these goals and requirements, the Highlands Council should establish and maintain an inventory of **Historic and Cultural Resources** for the Highlands Region. Toward this end the State Historic Preservation Office (SHPO) has undertaken a statewide comprehensive inventory, beginning with the Highlands Region. This inventory includes resources currently known by the State and expected to meet national and State register criteria. The Highlands Council inventory would utilize this baseline inventory and would be augmented to include additional historic and cultural resources.

The historic and cultural resources of the Highlands contribute greatly to the overall character of the Highlands themselves. It is their history, both physical and cultural, that has formed the basis of today’s Highlands. By protecting our cultural and historic resources, we also help protect the essential character of the Highlands. Historic and cultural resources exist throughout the Highlands and their protection and stewardship should be managed consistently throughout the region. In order accomplish these protection goals, we must have an understanding of what these resources are and where they are located. Much of this information can be drawn from local knowledge and local history.

2) Establish a **Historic and Cultural Resources** nomination process for the Highlands Region that permits the identification and delineation of historic and cultural resources.

Rationale: In order to better address the concerns associated with historic and cultural resources, we need to have a better understanding of these resources. We need to know what they are comprised of and where they are located. The adoption of a historic and cultural resource nomination process for the Highlands Region allows for the development of a consistent and regionally supported program. A nomination process for stakeholder input and nomination, in addition to county and municipal inventories, would address gaps in information and would aid in developing a comprehensive list of historic and cultural resources.

3) Encourage the establishment of a local historic preservation commission, or similar functioning entity. The local government entity would be charged with reviewing all development and redevelopment proposals as they relate to the historic and cultural resources of the town and its surroundings.

Rationale: Historic and cultural resources can contribute significantly to other development and redevelopment proposals within Highlands municipalities. However, development and redevelopment decisions made without the benefit of local historic and cultural information may have unintended and unforeseen impacts. An early review by a historic preservation entity can help anticipate these impacts and provide insight to help alleviate negative effects and bolster positive contributions.

Historic and cultural resources can exist alongside and in concert with many other land uses. Historic buildings are often valuable because of their design and representation of a particular period in history. Their historic characteristics can often be preserved at the same time as the structures are re-used for current day activities. It is important to understand that historic and cultural preservation can be achieved in many different ways and most of these resources are not slated to be museums. It is equally important to understand that historic and cultural resources are just as irreplaceable as some of our natural resources and therefore deserve substantial protection efforts. Compatible uses should be sought that do not destroy or compromise the value and integrity of the historic and cultural resources.

Municipalities should establish guidelines to provide for the protection and stewardship of local historic and cultural resources and ensure their inclusion early in the planning process for any new development or redevelopment within the Highlands. The establishment of a Historic Preservation Commission or other similar local body, charged with reviewing all proposals for their impact on historic and cultural resources, would serve this function.

4) The following Resource Protection Standards are recommended for the RMP in furtherance of the goals and requirements of the Highlands Act to protect and enhance Highlands resources, including:

- Require inclusion of Historic and Cultural Resource protection standards within municipal zoning and land use ordinances including identification of a historic district(s), historic district review standards, site plan and subdivision review criteria, and other techniques for advancing the historic and cultural resources of the municipality.
- Address the issue of teardowns. Consider development regulations to discourage the practice of tearing down existing, good quality structures to replace with larger, often architecturally inconsistent new buildings.
- Encourage sensitive adaptive re-use of historic structures as a means to protect them from demolition and to give them an economic role in the present.
- Consider historic transportation structures such as bridges and signs in reviewing transportation improvement projects.
- Refer to the Secretary of the Interior's Standards for the Treatment of Historic Properties as the guideline for municipal historic preservation initiatives.

Rationale: Resource Protection Standards provide the ability to protect the historic and cultural resources in the Highlands Region. The Highlands Act requires a Resource Assessment to evaluate historic resources and determine the "overall policies required to maintain and enhance such resources." Section 11.a.(1)(b). The Act also requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12.

Historic and cultural resources exist throughout the Highlands and their protection and stewardship should be managed consistently throughout the region. Historic structures are often located in early settlement areas which have developed into the towns, villages and centers of New Jersey. Their protection and stewardship can and should be advanced as those areas continue to grow and develop.

Just as the natural resources of the Highlands need and deserve protection, so do our built resources. These historic and cultural resources are irreplaceable once they have been destroyed, but when preserved can contribute greatly to both the economic and recreational resources of the Highlands. The success of eco-tourism in the region will be served by wise utilization of the many cultural and historic resources throughout the Highlands.

In-fill development and new growth in and adjacent to cultural and historic resources should incorporate them as valuable elements of the overall plans. Similarly, historic and cultural resources may attract economic activity because of their quality and character. Economic development and historic and cultural preservation can be complementary to one another and this positive relationship should be advanced.

5) The following Pre-Conformance strategies are recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP prior to the conformance period, including:

- Develop Historic and Cultural Resource nomination program protocols including identification criteria and map submission requirements.
- Establish RMP historic and cultural protection criteria for ordinances and design standards.
- Gather existing regional, county and municipal inventories of historic and cultural resources from Highlands municipalities, counties, and local historic preservation groups.

Rationale: RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Highlands Council and municipal and county stakeholders during the Plan Conformance process, as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, county, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

6) The following Conformance strategies are recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP during the conformance period, including:

- Develop a process for counties, municipalities, and stakeholders to nominate sites for Historic and Cultural Resource protection as part of the Plan Conformance process.
- Highlands Council Staff will assist constituent counties and municipalities by providing available information and sources for historic and cultural resource data. This may be done in a number of ways including having the local governing body select potential sites for inclusion based on their local knowledge and/or engaging the assistance of local residents and visitors in a resources questionnaire or survey.

- A Historic Preservation element shall be required as an integral component of the municipal master plan for all Highlands municipalities.

Rationale: RMP Implementation Strategies support the necessity to determine what activities, data, and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, county, and local support from all levels of government and the support of the stakeholders of the Highlands Region. The Municipal Land Use Law (N.J.S.A.40:55D-28.b.) provides for the preparation of a Historic Preservation Plan element within the municipal master plan. This element is intended to indicate the location and significance of historic resources, identify standards for assessing their value, and analyze the impact of other elements of the master plan on these resources. The historic preservation plan element establishes the base from which to make future land use decisions related to the historic resources of the community.

7) The following 5-year Resource Protection and Planning Goals are recommended in furtherance of the goals and requirements of the Highlands Act to ensure continued refinement and development of the RMP, including:

- Continue the recognition of historic and cultural resource protection needs among public and private entities for resource protection strategies consistent with the RMP.
- Continuously incorporate historic and cultural resource data from State, county, regional, and municipal data base into the Highlands inventory.
- Develop indicators to serve as an assessment tool in meeting historic and cultural goals and policies.

Rationale: The Highlands Act requires the Highlands Council to periodically revise and update the RMP at least once every six years. Section 8.a. As we move forward, our data will continually be updated and indicators of success should be identified. Lessons will continue to be learned and these lessons will be applied with each iteration of the Regional Master Plan. RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, county, and local support from all levels of government and the support of the stakeholders of the Highlands Region. Sections 11.a.(3), 14 and 15.

8) The following Coordination and Consistency Considerations are recommended to promote active participation in the implementation of the RMP among state and federal agencies:

- Development of a region-wide historic and cultural inventory will provide a consistent data base for use by all Highlands municipalities and counties, as well as a resource and a reference for federal agencies, State agencies, and local landowners, as future land use decisions are considered.

- Coordinate with the Historic Preservation Trust to ensure a stable source of funding for preservation and stewardship of historic and cultural resources within the Highlands Region.
- Establish and implement a signage program in cooperation with the Department of Transportation and local government units to identify significant natural and historic resources and landmarks in the Highlands Region.
- Coordinate with NJDEP to ensure that Highlands Preservation Area Approvals require review and evaluation of historic resources.

Rationale: RMP Implementation Strategies support the necessity to determine what local, county, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the RMP. Sections 11.a.(4). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

9) The following Local Participation Considerations are recommended to promote the understanding and support for the RMP resource protection goals at the local level:

- Assist municipal and county entities to gather historic and cultural resource information to update existing data sources or nominate new ones.
- Include tourism professionals for their opinions on potential sites of historic and cultural resource significance in the Highlands Region in support of eco-tourism initiatives.
- Develop a coordinated interpretive system for historic and cultural resources in the Highlands Region that may include elements such as signage, brochures, self-tour guides, etc.
- Provide for the development or redevelopment of Specially Planned Areas. Projects proposed within a Specially Planned Area will be subject to the following requirements:
 - Preparation of a historic survey of the Specially Planned Area and the surrounding area;
 - Adherence to historic and archeological guidelines established for the subject area; and
 - Demonstration that the minimal practicable degradation of historic and archeological properties had been achieved.

Rationale: RMP Implementation Strategies support the necessity to provide for the maximum feasible local government and public input into the Highlands Council's operations. Section 11.a.(3)(emphasis added). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, county, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

The Specially Planned Areas are those areas considered to be “appropriate for redevelopment” as outlined in the Highlands Act. Section 11.a.(6)(h) The Act provides for the identification of redevelopment areas in order “to promote the economic well-being of the municipality, provided that the redevelopment conforms with the goals of the preservation and [the] Act.” Section 9.b.

II. REQUIREMENTS OF THE HIGHLANDS ACT AND RMP GOALS RELATED TO HISTORIC AND CULTURAL RESOURCE PROTECTION REQUIREMENTS:

Goals of the Highlands Act:

In accordance with Section 10 of the Highlands Act, the overarching goal of the Regional Master Plan “with respect to the entire Highlands Region shall be to protect and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act.” Section 10.a.

The Highlands Act establishes specific goals relating to protection of historic sites and historic resources. Those goals with respect to the Preservation Area shall be to:

- preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the Highlands Region. Section 10.b.(2).
- 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.b.(3).
- preserve farmland and **historic sites and other historic resources**. Section 10.b.(4).
- promote compatible agricultural, horticultural, recreational and cultural uses and opportunities within the framework of protecting the Highlands environment. Section 10.b.(9).
- prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area. Section 10.b.(9).

In addition, the goals with relating to protection of historic sites and historic resources with respect to the Planning Area shall be to:

- preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes. Section 10.c.(2).
- protect and maintain the essential character of the Highlands environment. Section 10.c.(3).
- preserve farmland and **historic sites and other historic resources**. Section 10.c.(4).

Requirements of the Highlands Act:

Resource Assessment

The Highlands Act includes specific requirements relating to protection of historic resources requiring the development of a Resource Assessment for the Highlands Region which “(b) includes an assessment of scenic, aesthetic, cultural, **historic**, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources.” Section 11.a.(1)(b)(emphasis added).

Smart Growth Component

The Highlands Act also includes specific requirements relating to protection of historic resources requiring the development of a Smart Growth component that includes “an assessment, based upon the resource assessment prepared pursuant to paragraph (1) of subsection a. of this section, of opportunities for appropriate development, redevelopment, and

economic growth, and a transfer of development rights program In preparing this component, the council shall:

- (a) prepare a **land use capability map**;
- (b) identify **existing developed areas** capable of sustaining redevelopment activities and investment;
- (c) identify undeveloped areas in the planning area, which are not significantly constrained by environmental limitations such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure, that could be developed;
- (g) identify special critical environmental areas and other critical natural resource lands where development should be limited. Section 11.a.(6)(emphasis added).

Preservation Area Assessment

For the Preservation Area, Section 12 of the Highlands Act requires “a **land use capability map** and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area, which shall be based upon, comply with, and implement the **environmental standards**” adopted by NJDEP and the **Resource Assessment prepared the Highlands Council** under Section 11. Section 12.(emphasis added).

Section 12 specifically requires implementation “that will ensure the continued, uniform, and consistent protection of the Highlands Region in accordance with the goals, purposes, policies, and provisions of this act, and shall include:

- a. a preservation zone element that identifies zones within the preservation area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights; and
- b. **minimum standards governing municipal and county master planning, development regulations, and other regulations concerning the development and use of land in the preservation area**, including, but not limited to, standards for minimum lot sizes and stream setbacks, construction on steep slopes, maximum appropriate population densities, and **regulated or prohibited uses** for specific portions of the preservation area. Section 12.(emphasis added).

Preservation Area Requirements

The NJDEP’s rules at N.J.A.C. 7:38-3.10 provides protection for historic or archaeological areas. Pursuant to N.J.A.C. 7:38-3.10(b), NJDEP rules states that no one may engage in regulated activities that would impact historic or archaeological properties without first conducting an intensive-level architectural survey. In accordance with N.J.A.C. 7:38-3.10(l), NJDEP shall not issue a permit in the Preservation Area if the regulated activity will result in more than the minimum practicable degradation or impact to a historical or archaeological area

This rule implements the Highlands Act’s protection requirements in the Preservation Area pursuant to Section 36.a(6) to ensure “minimal practicable degradation of unique or irreplaceable land types, historical or archaeological areas, and existing public scenic attributes at the site and within the surrounding area.”

Local Participation Component

A component to provide for the maximum feasible local government and public input into the council's operations, which shall include a framework for developing policies for the planning area in conjunction with those local government units in the planning area who choose to conform to the regional master plan. Section 11.a.(3).

Coordination and Consistency Component

A coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the regional master plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the Highlands Region may be integrated into the regional master plan. Section 11.a.(4)..

III. TECHNICAL BASIS AND JUSTIFICATION FOR STAFF RECOMMENDATIONS

“The Highlands is about our heritage. We are losing money by not capturing, retaining and promoting the character of the region. Historic resources leverage private investment. We need to create a Highlands tourism entity to attract funding, promote redevelopment, reduce loss of resources, and educate the public about the value of historic resources. We need to be more central in the planning process. Resources have value sustained over time. . . .” These are the words drafted in the vision statement supported by the Cultural, Historic and Scenic Resource Technical Advisory Committee and Eco-tourism and Recreation Technical Advisory Committee who came together during the Highlands Council’s Charrette in March 2006. Comprised of experts in the fields of historic, cultural and scenic resources and eco-tourism and recreation, these advisors participated for two days in an intensive work session to help the Highlands Council understand the importance and value of the resources that exist in the region.

The Highlands Act calls for the regional master plan within its resource assessment component to assess the “scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources.” Section 11.a.(1)(b). The policy proposals above are intended to meet that charge as relates to cultural and historic, and advance efforts toward maintenance and enhancement of those resources within the Highlands Region.

The Highlands Region has a total of 597 historic districts and individual resources that are known to the State Historic Preservation Office (SHPO). Of these sites, 242 (41%) are listed on the State and National Registers. Of the listed properties, 59 (24%) are historic districts that contain an undetermined number of individual sites. The Highlands Region also has 4 National Historic Landmarks and 56 archaeological sites. Several of these sites are regional resources, such as the Morris Canal, and traverse multiple counties and municipalities. Accordingly, there is a need for a comprehensive and regional approach for protection and stewardship of the historic and cultural resources of the Highlands.

IV. GLOSSARY

This section defines the terms that are used to develop the approach and methods that informed the proposed policy actions for this RMP element. Topic specific glossaries will contribute to the general RMP glossary of terms.

Historic and Archaeological Areas - Those historic or archaeological properties that are listed or are eligible for listing on the New Jersey or National Register of Historic Places pursuant to N.J.A.C. 7:4-2.3. N.J.A.C. 7:38-3.10(a)

National Historic Landmark (NHL) – National Historic Landmark is a designation given by the National Park Service to a property of national significance. Properties designated NHLs are automatically listed in the National Register. *New Jersey Historic Preservation Office, www.nj.gov/dep/hpo/1identify/identify.htm#njlrlhp*

National Register of Historic Places - The national list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture maintained by the Secretary of the United States Department of the Interior under authority of the National Historic Preservation Act, as amended (16 U.S.C. §§ 470 et seq.) N.J.A.C. 5:101-1.3 and N.J.A.C. 7:4-1.3

New Jersey Register of Historic Places – Areas, sites, structures and objects significant in American history, architecture, archaeology and culture which the Commissioner of the Department of Environmental Protection is authorized to maintain and expand under the New Jersey Register of Historic Places Act, N.J.S.A. 13:1B-15.128 et seq. N.J.A.C. 5:101-1.3 and N.J.A.C. 7:4-1.3

Specially Planned Areas – Specially Planned Areas are previously developed lands that contain characteristics including infill and adaptive reuse and, due to past development patterns, have limited resource constraints. Within the Preservation Area a Specially Planned Area is limited to an area or site that contains at least 70% impervious area or is a Brownfield site determined to be a Specially Planned Area by the Highlands Council and NJDEP.

Teardowns – The practice of purchasing an existing home on a lot, demolishing it, and building a new, larger home in its place, often out of character with the original neighborhood. *National Trust for Historic Preservation, www.nationaltrust.org/teardowns/*

The Secretary of the Interior's Standards for the Treatment of Historic Properties – The Standards offer basic historic preservation guidance for identifying, retaining, and preserving the form and details of historic properties. The preservation philosophy is implemented through a hierarchy that emphasizes maintaining and protecting first, repairing second, and replacing only when maintenance or repairs are not feasible or cost-effective. The Standards also include guidance for replicating or reconstructing missing elements and adding to or altering historic properties. The Standards are available from the National Park Service website along with related guidance and illustrations. *National Park Service, Department of the Interior, www.cr.nps.gov/local-law/arch_stnds_0.htm*

Policy Consideration: **Baseline Economic Indicators**
Status: **For Consideration by the Highlands Council at**
September 14, 2006 Work session
Date: **September 12, 2006**

I. STAFF POLICY RECOMMENDATIONS

The following RMP policy strategies are proposed by staff in support of the Highlands Region's Baseline Economic Indicators:

- 1) Establish Highlands Baseline Economic Indicators as the 8 categories detailed below. All indicators were aggregated into the following 8 subsets, including Highlands Region, Planning Area, Preservation Area, Split municipalities, Highlands Counties, 7 County Totals, New Jersey, and Municipal, as defined within the Glossary of this document.
 - **Population** – represents total persons residing within each subset.
Example: The total population for the Highlands Region in 2004 was 832,547.
 - **Unemployment** – unemployment rates per subset (where possible).
Example: Highlands average unemployment rate is 3.6%
 - **Housing Units** – a house, apartment, mobile home or trailer, a group of rooms, or a single room that is occupied.
Example: As of 2000, there were a total of 284,260 housing units in the Highlands Region.
 - **Income** – median family income and per capita income.
Example: Median family income in the Highlands Region is \$75,087 and per capita income is \$34,312 per capita.
 - **Per Household Property Tax** – total amount of property taxes paid per household and per capita.
Example: Average property tax bill in the Highlands Region is \$5,838.19 (per household) and \$2,625.70 (per capita)
 - **Property Tax Change** – comparison of percent change per household property tax from 2004 to 2005.
Example: Property taxes in the Highlands Region increased by an average of 9.6% from 2004 to 2005.
 - **Equalized Property Values** – property values that reflect assessed property values multiplied by the individual municipality's equalization rate. These were calculated for vacant, residential, commercial, farmland, and industrial classified lands. These are also separated into a per parcel and per acre value.
Example: Vacant equalized values per parcel in the Highlands Region in 2004 was \$98,424.24, with a per acre value of \$9,429.
 - **Transactions** – land sales and transfers recorded by the county and provide to the Division of Taxation at the Department of the Treasury. These records are used as inputs for the regularly published "SR1A" reports. Outliers such as \$1 transactions are omitted from this report.
Example: There was an average of 256.3 residential transactions per municipality within the Highlands Region.

Rational: The purpose of the Baseline Economic Indicators is to establish existing economic conditions of the Highlands Region and to set baseline economic data for further updates and analysis. An accurate understanding of economic conditions in the Highlands Region is an important element for addressing the financial implications of the development and implementation of the RMP. All elements of the financial component benefit from the collection of baseline economic indicators. Section 11.a.(2) of the

Highlands Act charges the Council with developing “a financial component; together with a cash flow timetable which “details the cost of implementing the regional master plan” and “details the source of revenue for covering such costs.”

- 2) Use Economic Indicators to support the evaluation of RMP goals such as the Financial Impact Analysis and the Build out Model, and longer term goals such as the Municipal Economic Tracking Program.

Rational: Economic Indicator data support the understanding of economic conditions in the Highlands Region and are an important element for addressing the financial implications of the development and implementation of the RMP.

- 3) The following Pre-Conformance strategy is recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP during the Pre-Conformance period, including:
 - Provide opportunities for stakeholder review and comment on economic data.
 - Examine requests for expanded and additional regional economic indicators in support of the Municipal Economic Tracking Program.

Rational: RMP implementation strategies will contribute to the development of those activities, data and programs that will be required of both the Highlands Council and municipal and county stakeholders during the Plan Conformance process as well as longer term planning goals. Sections 11.a.(3), 14 and 15. Municipal review of economic data will help to ensure that all data is correct. The RMP is “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals, the RMP must have State, County, and local support from all levels of government and stakeholders of the Highlands Region.

- 4) The following Conformance strategy is recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP during the Conformance period, including:
 - Assist municipalities in participating in Municipal Economic Tracking Program.

Rational: Participation in the Municipal Tracking Program will allow for greater input of local conditions into RMP economic initiatives and serve as a resource for evaluating shared service opportunities and inform economic and capital planning. RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals, the RMP must have State, County, and local support from all levels of government and stakeholders of the Highlands Region.

- 5) The following Five Year Highlands Resource Protection and Planning goal is recommended in furtherance of the goals and requirements of the Highlands Act to ensure continued refinement and development of the RMP, including:
 - Annually evaluate the economic indicators to track economic trends for the Highlands Region.

Rational: Participation in the Municipal Tracking Program will allow for greater input of local conditions into RMP economic initiatives. Counties and municipalities may utilize this information as land use planning decisions are considered and to support shared services approaches, infrastructure planning and investment, and eco-tourism. The Highlands Act requires the Highlands Council to periodically

revise and update the RMP at least once every six years. Section 8.a. The RMP is “living document” and will continue to be refined and developed in support of regional planning goals.

- 6) The following Coordination and Consistency Considerations are recommended to promote active participation in the implementation of the RMP among state and federal agencies:
 - Coordinate financial data updates with the Division of Taxation in Treasury and the Local Government Services division in Department of Community Affairs (DCA).

Rational: The economic indicators include extensive data from these agencies and a shared portal or other streamlined communications process would assist in timely and reliable data for the planned annual updates. RMP Implementation Strategies support the necessity to determine what local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the RMP. Sections 11.a.(4).

- 7) The following Local Participation Considerations are recommended to promote the understanding and support for the RMP at the local level.
 - Develop programs to assist municipal and county officials on the tracking and reporting of regional economic indicators.
 - Track and monitor the 8 regional economic indicators and provide a published baseline economic report that tracks short term and long term trends.

Rational: RMP Implementation Strategies support the necessity to provide for the maximum feasible local government and public input into the Highlands Council's operations. Section 11.a.(3)(emphasis added). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

II. REQUIREMENTS OF THE HIGHLANDS ACT AND RMP GOALS RELATED TO BASELINE ECONOMIC INDICATORS:

Goals of the Highlands Act:

In accordance with Section 10 of the Highlands Act, the overarching goal of the Regional Master Plan “with respect to the entire Highlands Region shall be to protect and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act.” Section 10.a.

The Highlands Act does not include specific goals relating to the establishment of baseline economic indicators; however, numerous goals impact economic conditions. Those goals with respect to the Preservation Area shall be to:

- preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the Highlands Region. Section 10.b.(2).
- preserve farmland and historic sites and other historic resources. Section 10.b.(4).
- promote conservation of water resources. Section 10.b.(6).
- promote brownfield remediation and redevelopment. Section 10.b.(7).
- promote compatible agricultural, horticultural, recreational and cultural uses and opportunities within the framework of protecting the Highlands environment. Section 10.b.(8).

- prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area. Section 10.b.(9).

In addition, the goals with relating to protection of scenic resources with respect to the Planning Area shall be to:

- preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes. Section 10.c.(2).
- protect and maintain the essential character of the Highlands environment. Section 10.c.(3).
- promote conservation of water resources. Section 10.c.(7).
- promote brownfield remediation and redevelopment. Section 10.c.(8).
- encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof. Section 10.c.(9).

Requirements of the Highlands Act:

Financial Component

Section 11.a.(2) charges the Council with developing “[a] financial component; together with a cash flow timetable which:

- (a) details the cost of implementing the regional master plan, including, but not limited to, property tax stabilization measures, watershed moratorium offset aid, planning grants and other State aid for local government units, capital requirements for any development transfer bank, payments in lieu-of-taxes, acquisition, within five years and within 10 years after the date of enactment of this act, of fee simple or other interests in lands for preservation or recreation and conservation purposes, compensation guarantees, general administrative costs, and any anticipated extraordinary or continuing costs; and
- (b) details the source of revenue for covering such costs, including, but not limited to, grants, donations, and loans from local, State, and federal departments, agencies, and other governmental entities, and from the private sector.

Smart Growth Component

The Highlands Act includes specific requirements relating to wastewater capacity, requiring the development of a Smart Growth component that includes “A smart growth component that includes an assessment, based upon the {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, recycling, brownfields, and design such as mixed-use, compact design, and transit villages. In preparing this component, the council shall:

- (a) prepare a land use capability map;
- (b) **identify existing developed areas capable of sustaining redevelopment activities and investment;**
- (c) **identify undeveloped areas in the planning area, which are not significantly constrained by environmental limitations such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure, that could be developed;**

(d) **identify transportation, water, wastewater, and power infrastructure that would support or limit development and redevelopment in the planning area.** This analysis shall also provide proposed densities for development, redevelopment, or voluntary receiving zones for the transfer of development rights;

(e) identify **potential voluntary receiving zones in the planning area for the transfer of development rights** through the appropriate expansion of infrastructure or the modified uses of existing infrastructure;

(f) issue model minimum standards for municipal and county master planning and development regulations outside of the preservation area, including density standards for center-based development to encourage, where appropriate, the adoption of such standards;

(g) identify special critical environmental areas and other critical natural resource lands where development should be limited; and

(h) identify **areas appropriate for redevelopment** and set appropriate density standards for redevelopment. Any area identified for possible redevelopment pursuant to this subparagraph shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.”

Section 11.a.(6)(emphasis added).

Preservation Area Assessment

For the Preservation Area, Section 12 of the Highlands Act requires “a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area, which shall be based upon, comply with, and implement the environmental standards” adopted by NJDEP and the Resource Assessment prepared the Highlands Council under Section 11. Section 12.

Section 12 specifically requires implementation “that will ensure the continued, uniform, and consistent protection of the Highlands Region in accordance with the goals, purposes, policies, and provisions of this act, and shall include:

a. a preservation zone element that identifies zones within the preservation area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights; and

b. minimum standards governing municipal and county master planning, development regulations, and other regulations concerning the development and use of land in the preservation area, including, but not limited to, standards for minimum lot sizes and stream setbacks, construction on steep slopes, maximum appropriate population densities, and regulated or prohibited uses for specific portions of the preservation area. Section 12.

Local Participation Component

A component to provide for the maximum feasible local government and public input into the council's operations, which shall include a framework for developing policies for the planning area in conjunction with those local government units in the planning area who choose to conform to the regional master plan. Section 11.a.(3).

Coordination and Consistency Component

A coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the regional master plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the Highlands Region may be integrated into the regional master plan. Section 11.a.(4).

III. TECHNICAL BASIS AND JUSTIFICATION FOR STAFF RECOMMENDATIONS

The Financial Component is intended to outline the economic framework for ongoing analysis, focusing on the costs and revenues resulting from the Highlands Act and the Regional Master Plan (RMP). A primary objective of the Financial Component is to collect relevant regional information from the disparate and extensive data sources to create a consolidated Highlands economic database. The Financial Component consists of three main elements: the Baseline Economic Indicators report, a Fiscal Impact Analysis and a Cash Flow Timetable.

The Baseline Economic Indicators analysis relies on traditional economic indices and focuses on property valuation. The calculations and data will be applied to elements of the Cash Flow Timetable to address the trend, build-out, and fiscal impact projections of the RMP. Additional goals include a regional analysis of the overall economic health and vitality of the Highlands Region and establishing an economic profile of the Region. A protocol and tracking format, called the Municipal Economic Tracking Program was developed for monitoring these indicators.

IV. GLOSSARY

This section defines the terms that are used to develop the approach and methods that informed the proposed policy actions for this RMP element. Topic specific glossaries will contribute to the general RMP glossary of terms.

Highlands Baseline Economic Indicators – variables that represent economic activity and can be quantified through established statewide procedures.

The data for the indicators within each category were aggregated into 8 subsets representing various areas and comparative regions:

Highlands Region – Total or average values derived from all 88 municipalities.

Planning Area – Total or average values for those municipalities wholly within the Planning Area (36 municipalities).

Preservation Area – Total or average values for those municipalities wholly within the Preservation Area (5 municipalities).

Split – Total or average values for those municipalities with areas in both the Planning and Preservation Areas (47 municipalities).

Highlands Counties – Total or average values for those municipalities within the Highlands Region (7 Counties -Bergen, Hunterdon, Morris, Passaic, Somerset, Warren, and Sussex). These are designated by an “H.” For example, the municipalities within Morris County in the Highlands would be “H – Morris”, representing 32 of 39 municipalities.

7 County Totals – Total or average values for the entire County. For example, Passaic County has 5 municipalities in the Highlands Region, but all 16 municipal values are compiled.

New Jersey – Total or average statewide values.

Municipal – Values for each municipality within the Highlands Region.

Regional economic indicators and source data include:

Population – represents total persons residing within each subset. Source: US Census (1990 and 2000).

Unemployment – unemployment rates per subset (where possible). Source: New Jersey Department of Labor and Workforce Development (1990, 2000, 2002, 2004).

Housing Units – a house, apartment, mobile home or trailer, a group of rooms, or a single room that is occupied. Source: US Census.

Income – median family income and per capita income. Source: US Census (1989, 1999).

Per Household Property Tax – total amount of property taxes paid per household and per capita. Source: New Jersey Legislative District Data Book (1991, 2001, 2003, 2004).

Property Tax Change – comparison of percent change I per household property tax from 2004 to 2005. Source: New Jersey Department of Community Affairs.

Equalized Property Values – property values that reflect assessed property values multiplied by the individual municipality's equalization rate. These were calculated for vacant, residential, commercial, farmland, and industrial classified lands. These are also separated into a per parcel and per acre value. Source: New Jersey Department of Community Affairs, Division of Local Government Services (2004) and New Jersey Department of the Treasury.

Transactions – land sales and transfers recorded by the county and provide to the Division of Taxation at the Treasury. These records are used as inputs for the regularly published "SR1A" reports. Outliers such as \$1 transactions are omitted from this report. Source: New Jersey Department of the Treasury, Division of Taxation (2002, 2003, 2004, 2005).

RMP Component:	Smart Growth
RMP Program Element:	Utility Capacity
Policy Consideration:	Wastewater Utility Treatment Capacity Limitations
Status:	Final Draft for Consideration by Council
Date:	September 11, 2006

I. STAFF POLICY RECOMMENDATIONS

- 1) **Highlands Domestic Sewer Facilities** will be defined as those wastewater treatment facilities that have the potential to service regional growth and/or redevelopment opportunities within the Highlands. **Existing Areas Served** will be mapped as those parcels with current connections to Highlands Domestic Sewer Facilities.

Rationale: The Highlands Act at Section 11.a(6) requires a Smart Growth component that in part will “identify transportation, water, wastewater, and power infrastructure that would support or limit development and redevelopment in the planning area.” In addition, Section 42 revoked designated sewer service areas in the Preservation Area for which wastewater collection systems had not been installed on the date of enactment. For these reasons, it is important to identify wastewater treatment facilities in all parts of the Highlands Region. Larger domestic treatment work facilities with “community based” service areas provide the greatest potential to support regional development and redevelopment opportunities. Small domestic treatment works that provide treatment for individual sites or specific development projects such as an individual business, school, apartment complex or institution are constructed and permitted to handle only the projected flows from those facilities. Therefore, they lack capacity to provide sewer services to additional areas. Non-domestic treatment works such as industrial and non-contact cooling water treatment facilities do not have capacity to support future residential or commercial development. The mapping of Existing Areas Served provides a basis for wastewater service area planning, identification of potential redevelopment areas within such areas, etc.

- 2) **Available Wastewater Treatment Capacity** will be estimated for each Highlands Domestic Sewer Facility as the capacity that may be available to support regional growth and/or redevelopment opportunities within the Highlands Region, by subtracting the actual sewage flows for the maximum three month period from the total facility capacity.

Rationale: Wastewater flows are seasonal. Permit limits are generally based either on design capacity or pollutant assimilation capacity. Estimation of available capacity based on a comparison of seasonal high discharge levels to the permitted capacity is a valid method for determining the amount of treatment capacity that may be available to support future development and/or redevelopment opportunities. For facilities with service areas that extend outside the Highlands region, the estimate of Wastewater Treatment Capacity is based on a pro-rata share of capacity based on the relative amount of the proposed service area within the Highlands Region. More detailed information on the ability of these facilities to provide service within the Highlands Region was not available for plan development, but can be determined in specific areas during the conformance process where necessary.

- 3) Each Highlands Domestic Sewer Facility will be assigned a projected demand within its Existing Areas Served for **Redevelopment Treatment Capacity**, using 20% of existing

maximum three month demands, to assess whether there is adequate treatment capacity to encourage appropriate redevelopment opportunities and/or TDR Receiving Areas.

Rationale: Section 42 of the Highlands Act limits wastewater service areas in the preservation area to existing areas served but allows for redevelopment under limited conditions. In the planning area, providing sufficient capacity for redevelopment opportunities within areas already utilized for such purposes is critical to defining appropriate future service areas that are consistent with the regional smart growth principles, treatment capacity limitations and resource protection goals of the RMP. The 20 percent factor was selected as a preliminary estimate of increased demands due to redevelopment and can be adjusted during conformance as more detailed information becomes available for each Highlands Domestic Sewer Facility.

- 4) **Highlands Wastewater Sewer Service Areas** will be defined that incorporate the areas appropriate for regional growth and/or redevelopment, that already have sufficient treatment capacity by existing Highlands Domestic Sewer Facilities to service projected wastewater treatment demand.

Rationale: NJDEP is currently compiling information on the location and extent of approved service areas and requiring amendments to Wastewater Management Plans where appropriate. The Highlands Council may recommend modifications to wastewater service areas based on wastewater treatment capacity limitations and consistency with the Land Use Capability Map and the resource protection and smart growth principles of the RMP. Sections 11.a.(1) , 11.a.(6) and 12.

- 5) **Potential Wastewater Treatment Expansion Areas** will be identified that incorporate the areas otherwise appropriate to serve as regional growth and/or redevelopment areas, but where existing Highlands Domestic Sewer Facilities lack sufficient treatment capacity to service the projected wastewater treatment demand.

Rationale: The RMP may identify areas otherwise appropriate for regional growth or redevelopment in conformance with Highlands Act goals that do not currently have the necessary wastewater treatment capacity to service that growth. Although the quality of receiving water may pose significant limitations on expansion of wastewater treatment capacity, some existing treatment facilities may experience excessive inflow and infiltration (I&I) that limits available treatment capacity. I & I is the introduction of non-wastewater flow, such as ground water or stormwater, into sewer lines, creating flows above the levels caused by actual wastewater treatment demand within the service area and thereby may limit development opportunity. Water conservation may also be used to restore some level of capacity, where appropriate. Sections 11.a.(1) , 11.a.(6) and 12.

- 6) The following standards shall be incorporated into the **Regional Protection Zone** of the Land Use Capability Map (LUCM) in furtherance of the goals and requirements of the Highlands Act to preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state; to identify special critical environmental areas and other critical natural resource lands where development should be limited; and to promote compatible brownfield remediation and redevelopment, as follows:

- Prohibit expansion 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.

Rationale: The Highlands Act requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12. These provisions emphasize the importance of preserving large areas of contiguous lands with high environmental sensitivity, but also the desirability of redevelopment and brownfields remediation. The Regional Protection Zone contains the most concentrated areas of contiguous, high quality environmental resources, and therefore extension or creation of wastewater capacity should be very stringently limited within this zone, including the Preservation Area based on NJDEP regulations pursuant to Section 30 of the Act.

- 7) The following standards shall be incorporated into the **Regional Conservation Zone** of the Land Use Capability Map in furtherance of the goals and requirements of the Highlands Act to protect contiguous areas of high quality environmental resources, to protect farmland and provide for compatible, sustainable agriculture, and to promote compatible brownfield remediation and redevelopment, as follows:
- Allow for the expansion of wastewater collection systems within and immediately adjacent to Existing Areas Served within the Rural 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.
 - Provide for compact development served by existing or proposed Highlands Domestic Sewer Facilities only where such development within the Regional Conservation Zone adequately protects farmland and sensitive environmental resources through dedication of at least 80 percent of the site to farmland and open space preservation.
 - Ensure that areas not served by Highlands Domestic Sewer Facilities have development densities suitable for on-site wastewater treatment systems.

Rationale: The Highlands Act requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12. The Rural Conservation Zone includes significant agricultural areas and sensitive natural resources. Significant expansion of sewer service areas in this zone would be contrary to protection of these resources except for two instances – redevelopment of previously developed areas, and concentration of development potential from large areas into compact development areas with preservation, through a conservation easement, of the undeveloped areas. Wherever sewerage is not provided for under these two exceptions, development density should be limited to ensure proper dilution of on-site wastewater systems.

- 8) The following standards shall be incorporated into the **Regional Development Zone** of the Land Use Capability Map in furtherance of the goals and requirements of the Highlands Act to encourage appropriate patterns of compatible development and redevelopment in or adjacent to developed areas, including the potential use of voluntary TDR Receiving Zones

based on infrastructure and land use conditions and local desire, and to discourage inappropriate development patterns, all while protecting the Highlands environment, as follows:

- Give highest priority for allocation of existing wastewater treatment capacity to redevelopment areas or regional growth areas that can accommodate TDR Receiving Zones.

Rationale: The Highlands Act requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12. These provisions emphasize protection of Highlands resources, but then encourage development that is consistent with smart growth and State Development and Redevelopment Plan provisions, are supported by infrastructure, and will result in appropriate development patterns.

- 9) The following **Resource Protection Standards** are recommended for the RMP in furtherance of the goals and requirements of the Highlands Act to protect and enhance Highlands resources, including:

- 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. Critical natural resource areas include HOW Protection Areas, Riparian Areas, Significant Natural Areas, Regional Forest Conservation Area, and Critical Wildlife Habitat.

Rationale: RMP standards are assigned based on regional indicators of Highlands riparian area quality. The RMP Standards support the necessity to determine the amount and type of human development and activity the Highlands Region can sustain while still maintaining the ecological value of the Highlands Region. Section 11.a.(1)(a). The Highlands Act requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12. Well head protection areas provide source water protection for public water supply wells; leaking sewer lines can damage well water quality. Critical natural areas are incompatible with sewer-supported development densities, and therefore sewer service areas should avoid them. This provision is a continuation and expansion of USEPA policies to prohibit sewerage of wetland and flood plain areas for any treatment facilities receiving federal grants.

- 10) The following **Smart Design Standards** are recommended for the RMP in furtherance of the goals and requirements of the Highlands Act to encourage appropriate conservation based design throughout the region, including:

- 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.

- Establish requirements for inspection and reporting of individual on-site wastewater disposal systems (i.e. septic)

Rationale: RMP standards are assigned based on regional indicators of Highlands riparian area quality. The RMP Standards support the necessity to determine the amount and type of human development and activity the Highlands Region can sustain while still maintaining the ecological value of the Highlands Region. Section 11.a.(1)(a). The Highlands Act requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12. Wastewater capacity should be used efficiently wherever provided. Therefore, standards are needed to ensure water conservation and prevent non-wastewater flows to sewer lines, and to identify areas that may be appropriately served by sewer collection systems to correct an imminent threat to public health due to a high incidence of failing septic systems.

11) The following **Regional Growth Standards** are recommended for the RMP in furtherance of the goals and requirements of the Highlands Water Protection and Planning Act to encourage appropriate economic development opportunity throughout the region, including:

- 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 of no more than 1/2 acre per dwelling unit, and equivalent commercial and business Floor to Area Ratios (FAR) to ensure cost-effective utility service.
- Give highest priority to allocation of available wastewater treatment capacity within TDR Receiving Zones adopted by a municipality and approved by the Highlands Council.

Rationale: RMP standards are assigned based on regional indicators of Highlands riparian area quality. The RMP Standards support the necessity to determine the amount and type of human development and activity the Highlands Region can sustain while still maintaining the ecological value of the Highlands Region. Section 11.a.(1)(a). The Highlands Act requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12. The RMP establishes areas suitable for sewer service based on goals and provisions of the Highlands Act, and therefore wastewater management plans should likewise be in conformance with the RMP. Construction and maintenance of wastewater collection systems are a significant societal and household expense, and therefore should not support large-lot development. Finally, allocation of wastewater capacity to TDR Receiving Zones maximizes the benefit of the capacity to society, supporting both compact development forms and the preservation of critical natural resources (in the TDR Sending Zones).

12) The following **Pre-Conformance** strategies are recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP prior to the conformance period, including:

- Submit the Highlands Wastewater Service Area map 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 designation establishing the Highlands Council as the designated water quality planning agency for the Highlands Region.

Rationale: RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Highlands Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region. For wastewater management planning, a close coordination with NJDEP will provide benefits to RMP implementation.

- 13) The following **Conformance** strategies are recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP during the conformance period, including:

- Require that municipal conformance approval include an approved wastewater management plan that conforms with both NJDEP rules and is consistent with the Highlands Wastewater Service Area identified in the RMP.
- Require that municipal and county conformance require delineation of existing sewer collection systems and identification of properties served by those systems.
- Allow for adjustments and revisions to Highlands Wastewater Service Area to include Special Planned 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.

Rationale: RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region. Ensuring conformity of wastewater management plans to the RMP (and by extension, to the local plans based on their conformance with the RMP) will provide for more efficient governance, clearer standards for landowners, etc.

- 14) The following **5-year Resource Protection and Planning Goals** are recommended in furtherance of the goals and requirements of the Highlands Act to ensure continued refinement and development of the RMP, including:

- 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.
- 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.

Rationale: The Highlands Act requires the Highlands Council to periodically revise and update the RMP at least once every six years. Section 8.a. RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region. Sections 11.a.(3), 14 and 15. An emphasis on water quality modeling will help determine where the Highlands Council can work with other stakeholders to actually improve the quality of Highlands water resources.

15) The following **Coordination and Consistency Considerations** are recommended to promote active participation in the implementation of the RMP among state and federal agencies:

- Develop a coordinated program with the NJDEP to track ground water and surface water wastewater discharges within the Highlands and maintain current estimates of available capacity consistent with the RMP.
- Develop a coordinated monitoring program with the NJDEP and the USGS to identify and monitor water quality concerns 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 goals of the RMP.
- Develop technical guidance with the NJDEP to promote water conservation measures in Highlands municipalities and in municipalities supplied with Highlands water.

Rationale: RMP Implementation Strategies support the necessity to determine what local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the RMP. Sections 11.a.(4). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region. Coordination on wastewater management issues will be a critical aspect of RMP implementation.

16) The following **Local Participation Considerations** are recommended to promote the understanding and support for the RMP resource protection goals at the local level:

- 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.

Rationale: RMP Implementation Strategies support the necessity to provide for the maximum feasible local government and public input into the Highlands Council's operations. Section 11.a.(3). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

II. REQUIREMENTS OF THE HIGHLANDS ACT AND RMP GOALS RELATED TO WASTEWATER UTILITY CAPACITY:

Goals of the Highlands Act:

In accordance with Section 10 of the Highlands Act, the overarching goal of the Regional Master Plan “with respect to the entire Highlands Region shall be to protect and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act.” Section 10.a.

The Highlands Act establishes specific goals relating to Wastewater Utility Treatment Capacity. Those goals with respect to the Preservation Area shall be to:

- protect, restore, and enhance the quality and quantity of surface and ground waters. Section 10.b.(1).
- promote conservation of water resources. Section 10.b.(6).

In addition, the goals with relating to protection of riparian areas with respect to the Planning Area shall be to:

- protect, restore, and enhance the quality and quantity of surface and ground waters. Section 10.c.(1).
- preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes. Section 10.c.(2).
- protect and maintain the essential character of the Highlands environment. Section 10.c.(3).
- promote conservation of water resources. Section 10.c.(7).
- encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof. Section 10.c.(9).

Requirements of the Highlands Act:

Resource Assessment

The Highlands Act does not include specific Resource Assessment requirements relating to Wastewater Utility Treatment Capacity. However, the designation of wastewater service areas will be affected by the Resource Assessment, which “(a) determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof, with special reference to surface and ground water quality and supply; contiguous forests and woodlands; endangered and threatened animals, plants, and biotic communities; ecological factors relating to the protection and enhancement of agricultural or horticultural production or activity; air quality; and other appropriate considerations affecting the ecological integrity of the Highlands Region.” Section 11.a.(1)(a).

Smart Growth Component

The Highlands Act includes specific requirements relating to wastewater capacity, requiring the development of a Smart Growth component that includes “A smart growth component that includes an assessment, based upon the {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, recycling, brownfields, and design such as mixed-use, compact design, and transit villages. In preparing this component, the council shall:

- (a) prepare a land use capability map;
- (b) **identify existing developed areas capable of sustaining redevelopment activities and investment;**
- (c) **identify undeveloped areas in the planning area, which are not significantly constrained by environmental limitations such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure, that could be developed;**
- (d) identify transportation, water, **wastewater**, and power infrastructure that would support or limit development and redevelopment in the planning area. This analysis shall also provide proposed densities for development, redevelopment, or voluntary receiving zones for the transfer of development rights;
- (e) identify potential voluntary receiving zones in the planning area for the transfer of development rights through the **appropriate expansion of infrastructure or the modified uses of existing infrastructure;**
- (f) issue model minimum standards for municipal and county master planning and development regulations outside of the preservation area, including density standards for center-based development to encourage, where appropriate, the adoption of such standards;
- (g) **identify special critical environmental areas and other critical natural resource lands where development should be limited;** and
- (h) identify areas appropriate for redevelopment and set appropriate density standards for redevelopment. Any area identified for possible redevelopment pursuant to this subparagraph shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.” Section 11.a.(6)(emphasis added).

Preservation Area Assessment

For the Preservation Area, Section 12 of the Highlands Act requires “a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area, which shall be based upon, comply with, and implement the environmental standards” adopted by NJDEP and the Resource Assessment prepared the Highlands Council under Section 11. Section 12.

Section 12 specifically requires implementation “that will ensure the continued, uniform, and consistent protection of the Highlands Region in accordance with the goals, purposes, policies, and provisions of this act, and shall include:

- a. a preservation zone element that identifies zones within the preservation area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights; and
- b. minimum standards governing municipal and county master planning, development regulations, and other regulations concerning the development and use of land in the preservation area, including, but not limited to, standards for minimum lot sizes and stream setbacks, construction on steep slopes, maximum appropriate population densities, and regulated or prohibited uses for specific portions of the preservation area. Section 12.

Preservation Area Requirements

Section 42 of the Highlands Act requires the following:

42. Notwithstanding the provisions of the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, within the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3), designated sewer service areas for which wastewater collection systems have not been installed on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) are hereby revoked, and any associated treatment works approvals in the impacted areas shall expire on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.), except that any designated sewer service area shall not be revoked and any associated treatment works approvals shall not expire if necessary to serve development in the Highlands preservation area that is exempt from the provisions of P.L.2004, c.120 (C.13:20-1 et al.) pursuant to subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28). The Department of Environmental Protection shall implement measures to amend any water quality management plan as appropriate to reflect the revocation of designated sewer service areas pursuant to this section.”

Section 34.b. requires “measures to ensure that existing water quality shall be maintained, restored, or enhanced, as required pursuant to the "Water Pollution Control Act," P.L.1977, c. 74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c. 75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, in all Highlands open waters and waters of the Highlands.”

In addition, Section 36 of the Highlands Act requires that NJDEP’s permitting review approval without a waiver may be issued only upon a finding that the proposed major Highlands development:

- (1) would have a de minimis impact on water resources and would not cause or contribute to a significant degradation of surface or ground waters. In making this determination, the

commissioner shall consider the extent of any impacts on water resources resulting from the proposed major Highlands development, including, but not limited to, the regenerative capacity of aquifers or other surface or ground water supplies, increases in stormwater generated, increases in impervious surface, increases in stormwater pollutant loading, changes in land use, and changes in vegetative cover;

(2) would cause minimal feasible interference with the natural functioning of animal, plant, and other natural resources at the site and within the surrounding area, and minimal feasible individual and cumulative adverse impacts to the environment both onsite and offsite of the major Highlands development;

(3) will result in minimum feasible alteration or impairment of the aquatic ecosystem including existing contour, vegetation, fish and wildlife resources, and aquatic circulation of a freshwater wetland;

(4) will not jeopardize the continued existence of species listed pursuant to "The Endangered and Nongame Species Conservation Act," P.L.1973, c. 309 (C.23:2A-1 et seq.) or the "Endangered Plant Species List Act," P.L.1989, c. 56 (C.13:1B-15.151 et seq.), or which appear on the federal endangered or threatened species list, and will not result in the likelihood of the destruction or adverse modification of habitat for any rare, threatened, or endangered species of animal or plant;

(5) is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety, and welfare;

(6) would result in minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing public scenic attributes at the site and within the surrounding area; and

(7) meets all other applicable department standards, rules, and regulations and State laws." Section 36.

Local Participation Component

A component to provide for the maximum feasible local government and public input into the council's operations, which shall include a framework for developing policies for the planning area in conjunction with those local government units in the planning area who choose to conform to the regional master plan. Section 11.a.(3).

Coordination and Consistency Component

A coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the regional master plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the Highlands Region may be integrated into the regional master plan. Section 11.a.(4).

III. TECHNICAL BASIS AND JUSTIFICATION FOR STAFF RECOMMENDATIONS

The smart growth element of the RMP seeks to identify the treatment capacity limitations of existing **Highlands 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 available for redevelopment and regional growth opportunity. The RMP then 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 purpose of this element is to establish the Wastewater Utility Treatment Capacity limitations within the Highlands region to inform identification of appropriate redevelopment and regional growth opportunities for inclusion in the Land Use Capability Map consistent with the resource protection requirements contained in the RMP. This element includes the following components:

- identify areas currently served by existing wastewater facilities
- identify proposed wastewater service areas for these facilities
- determine available treatment capacity for facilities that have the ability to support some level of regional growth and 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 existing treatment capacity sufficient to accommodate the projected wastewater treatment demand
- evaluate the potential or limitations for future expansion of wastewater treatment capacity where there is a clearly identified benefit to the RMP, based on existing water quality concerns and other limitations, and through the control of infiltration and inflow

Domestic treatment works are wastewater treatment facilities that process human effluent as their primary wastewater flow, though they may also treat industrial effluent from within their service area. They may discharge to ground water (DGW) or surface water (DSW), and have capacities ranging from less than 20,000 gallons per day to over 10 million gallons per day. Each has an associated service area. The existing areas served have been identified through a combination of NJDEP and utility data, billing records, etc. The full **Proposed Sewer Service Areas** are subject to prior review and approval by NJDEP, in consultation with the Highlands Council, to determine that there is sufficient treatment capacity to accommodate projected treatment demand within areas appropriate for development or redevelopment.

As part of the RMP the Highlands Council determined existing areas served by domestic treatment works and examined their existing flows to estimate available wastewater treatment capacity. The Highlands Council worked in cooperation with Hatch Mott MacDonald and NJDEP to compile background information to establish capacity limitations, existing area served and proposed service areas for individual wastewater treatment facilities. A technical memorandum titled *Wastewater Treatment Utility Infrastructure Capacity* discusses the methods and results of this effort.

IV. GLOSSARY

Available Wastewater Treatment Capacity – The capacity of an existing wastewater treatment facility resulting from the subtraction of the maximum three month average flows from the permitted flow.

Domestic Treatment Works - Wastewater treatment facilities that process human wastewater as their primary wastewater flow, though they may also treat industrial effluent from within their service area.

Existing Area Served - Properties that are currently, actively served by a Highlands Domestic Sewer Facility, based on the extent of existing collection systems.

Future Wastewater Treatment Expansion Areas – A portion of a Proposed Sewer Service Area that may be appropriate for regional growth but whose projected wastewater demand exceeds available wastewater treatment capacity.

Highlands Domestic Sewer Facility – A Domestic Treatment Works that provides wastewater treatment to municipalities and include treatment capacities sufficient to support redevelopment and regional growth opportunities.

Highlands Wastewater Service Area – The area that can be served by a Highlands Domestic Sewer Facility within available treatment capacity and consistent with the resource protection and smart growth planning goals of the RMP.

Projected Wastewater Demand – The total anticipated wastewater treatment requirements for a Proposed Wastewater Service Area based upon full build out in accordance with current municipal zoning.

Proposed Sewer Service Area – The extent of a sewer service area envisioned by a wastewater utility authority that may be subject to prior review and approval by NJDEP in consultation with the Highlands Council.

Redevelopment Treatment Capacity – A portion of the available Wastewater Treatment Capacity dedicated for redevelopment activities within Existing Areas Served based on 20% of the maximum three month average flows.

Special Planned Area – Previous developed lands that provides opportunities for redevelopment, including infill and adaptive reuse, based on limited resource constraints due to past development patterns. Within the Preservation Area a Special Planned Area is limited to an area or site that contains at least 70% impervious area or is a Brownfield site determined to be Special Planned Area by the Highlands Council and NJDEP.

Policy Consideration: **Scenic Resource Protection Program**
Status: **For Consideration by the Highlands Council at**
September 14, 2006 Work session
Date: **September 12, 2006**

I. STAFF POLICY RECOMMENDATIONS

The following RMP policy strategies are proposed by staff in support of a Scenic Resource Protection Program:

- 1) **Scenic Resource Areas** will be included in the Regional Master Plan (RMP) to protect the scenic resources of the Highlands Region and to protect and maintain the essential character of the Highlands. An inventory of Scenic Resource Areas shall be established and maintained.

Rationale: The Highlands Act includes specific goals to protect the natural, scenic, and other resources of the Highlands Region and protect and maintain the essential character of the Highlands. Sections 10.b.(3) and 10.c.(3). Section 11 of the Highlands Act requires a Resource Assessment in order to assessment the “scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources.” Section 11.a.(1)(b). To implement these goals and requirements, the Highlands Council should establish and maintain a Scenic Resource Area inventory for the Highlands Region. Scenic Resource Areas should be based on the definition provided in N.J.A.C. 7:38-3.12(c) and provide for the identification of additional scenic resources, focusing on resources that are regional in character or importance, especially the identification and designation of a system of scenic roads, byways, ridgelines, trails and waterways in the Highlands Region, and the viewsheds thereof. The Highlands Council should evaluate existing database resources as well as stakeholder suggestions. Database options to consider include:

- Municipal master plans
- County natural resource inventories and open space/recreation elements
- Farmland preserved with State, county, municipal or private preservation funds
- Historic sites listed on or eligible for inclusion on the National or State Register of Historic Places
- Rivers designated or eligible for designation as scenic or scenic byways under a recognized program, such as the National Wild and Scenic Rivers program
- Water bodies owned or managed by public or private entities for water supply and/or recreation purposes, such as reservoirs and their water supply feeder streams
- Federal, State, and/or county designated trails, including but not limited to the Appalachian Trail, Highlands Trail, Sussex Branch Trail, Columbia Trail, Patriots Path, and the Morris Canal walkways
- Roadways designated under State or National Scenic Byways Programs with funds administered by the Federal Highway Administration
- Transportation Enhancement projects approved by the New Jersey Department of Transportation
- Conservation agencies and non-profit organizations, such as the Highlands Coalition

2) Establish a Scenic Resource Area nomination process for the Highlands Region that permits the identification and delineation of Scenic Resource Protection Areas based upon intrinsic quality criteria which take into account foreground, middle-ground and background impacts.

Rationale: The adoption of a scenic resource nomination process for the Highlands Region allows for the development of a consistent and regionally supported program. A nomination process provides for stakeholder input.

- 3) The following Resource Protection Standards are recommended for the RMP in furtherance of the goals and requirements of the Highlands Act to protect and enhance Highlands resources, including:
- Restrict development activities and new land uses that impact or deter from Scenic Resource Protection Areas.
 - Require inclusion of Scenic Resource Area protection standards within municipal zoning and land use ordinances. Support scenic resource protection through land use regulations that prohibit billboards; limit height; address massing, setback, and orientation of structures; include measures to camouflage the appearance of utility towers in the landscape; require open space; and control tree removal.
 - Establish minimum requirements for incorporation of Scenic Resource Areas within municipal Master Plan Conservation Plan and Open Space Plan Elements and County Open Space Plans.

Rationale: Resource Protection Standards provide the ability to protect the Scenic Resource Areas in the Highlands Region. The Highlands Act requires a Resource Assessment to evaluate scenic resources and determine the “overall policies required to maintain and enhance such resources.” Section 11.a.(1)(b). The Act also requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12.

- 4) The following Smart Design Standards are recommended for the RMP in furtherance of the goals and requirements of the Highlands Act to encourage appropriate conservation based design throughout the region, including:
- Develop standards related to the preservation and enhancement of Scenic Resource Areas such as a menu of acceptable building materials; a recommended color palette for structures; coordinated signage and street furnishing details; parking and loading location requisites; and landscape guidelines for locating and massing vegetation.

Rationale: Design standards provide a framework to enhance local scenic resource protection and understanding. The Highlands Act requires a Resource Assessment to evaluate scenic resources and determine the “overall policies required to maintain and enhance such resources.” Section 11.a.(1)(b). The Act also requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12.

5) The following Pre-Conformance strategies are recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP prior to the conformance period, including:

- Develop Scenic Resource Area nomination program protocols including identification criteria and map submission requirements.
- Establish RMP scenic protection criteria for ordinances and design standards.
- Gather existing regional, county and municipal inventories of existing Scenic Resource Areas.

Rationale: RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Highlands Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

6) The following Conformance strategies are recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP during the conformance period, including:

- Counties, municipalities, and stakeholders will nominate sites for scenic resource protection as part of the Plan Conformance process. This may be done in a number of ways including having the local governing body select potential sites for inclusion based on their local knowledge and/or engaging the assistance of local residents and visitors in a scenic resources questionnaire or visual preference survey.
- Highlands Council Staff will assist constituent counties and municipalities by providing available information and sources for scenic resource data.

Rationale: RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

7) The following 5-year Resource Protection and Planning Goals are recommended in furtherance of the goals and requirements of the Highlands Act to ensure continued refinement and development of the RMP, including:

- Continue the process of identifying areas in need of scenic resource protection consistent with the goals and strategies of the Highlands RMP.

Rationale: The Highlands Act requires the Highlands Council to periodically revise and update the RMP at least once every six years. Section 8.a. RMP Implementation Strategies

support the necessity to determine what activities, data and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region. Sections 11.a.(3), 14 and 15.

- 8) The following Coordination and Consistency Considerations are recommended to promote active participation in the implementation of the RMP among state and federal agencies:
- Development of a region-wide Scenic Resource Area inventory to provide a consistent data base for use by all Highlands municipalities and counties, as well as a resource and a reference for federal agencies, State agencies, and local landowners as future land use decisions are considered.
 - Coordination with NJDEP to ensure that Highlands Preservation Area Approvals evaluate scenic resources and require appropriate mitigation measures to protect scenic resources and viewsheds within the Highlands. The Highlands Council’s inventory of Scenic Resource Areas in the Preservation Area shall constitute “Existing scenic attributes” pursuant to N.J.A.C. 7:38-3.12(c) and “other areas as identified by the Highlands Council.” The inventory will ensure that, in accordance with N.J.A.C. 7:38-3.12(d), the NJDEP shall not issue a permit in the Preservation Area unless “the proposed activity would result in the minimum practicable degradation to a unique or irreplaceable land type or existing scenic attributes on the site or within the immediate area of the proposed project.”
 - Coordination with land preservation initiatives to permit the purchase of land and/or conservation easements in support of scenic resource protection, including the Transfer of Development Rights program.

Rationale: As a means to coordinate and support scenic resource protection, land preservation and stewardship is required. There are few funding sources that specifically target scenic resource protection or enhancement activities for eligibility. However, numerous funding sources provide dollars for projects associated with the preservation and enhancement of land and improvements that are intrinsically connected to the preservation of scenic resources such as trails, historic sites and structures, farmland, and environmentally sensitive areas.

RMP Implementation Strategies support the necessity to determine what local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the RMP. Sections 11.a.(4). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

- 9) The following Local Participation Considerations are recommended to promote the understanding and support for the RMP resource protection goals at the local level:

- Assist municipal and county entities to gather scenic resource information to update existing data sources or nominate new ones.
- Assist municipalities and counties that wish to conduct random or targeted community surveys to determine scenic resources that local residents and visitors feel warrant protection.
- Solicit tourism professionals for their opinions on potential sites of scenic resource significance in the Highlands in support of eco-tourism initiatives.
- Develop a coordinated interpretive system for scenic resources in the Highlands as an education tool that may include elements such as signage, brochures, self-tour guides, etc.

Rationale: RMP Implementation Strategies support the necessity to provide for the maximum feasible local government and public input into the Highlands Council's operations. Section 11.a.(3)(emphasis added). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

II. REQUIREMENTS OF THE HIGHLANDS ACT AND RMP GOALS RELATED TO SCENIC RESOURCE PROTECTION REQUIREMENTS:

Goals of the Highlands Act:

In accordance with Section 10 of the Highlands Act, the overarching goal of the Regional Master Plan “with respect to the entire Highlands Region shall be to protect and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act.” Section 10.a.

The Highlands Act establishes specific goals relating to protection of scenic resources. Those goals with respect to the Preservation Area shall be to:

- preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the Highlands Region. Section 10.b.(2).
- 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.b.(3).
- prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area. Section 10.b.(9).

In addition, the goals with relating to protection of scenic resources with respect to the Planning Area shall be to:

- preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes. Section 10.c.(2).

- protect and maintain the essential character of the Highlands environment. Section 10.c.(3).

Requirements of the Highlands Act:

Resource Assessment

The Highlands Act includes specific requirements relating to protection of scenic resources requiring the development of a Resource Assessment for the Highlands Region which “(b) includes an assessment of **scenic**, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources.” Section 11.a.(1)(b)(emphasis added).

Smart Growth Component

The Highlands Act also includes specific requirements relating to protection of scenic resources requiring the development of a Smart Growth component that includes “an assessment, based upon the resource assessment prepared pursuant to paragraph (1) of subsection a. of this section, of opportunities for appropriate development, redevelopment, and economic growth, and a transfer of development rights program In preparing this component, the council shall:

- (a) prepare a **land use capability map**;
- (b) identify **existing developed areas** capable of sustaining redevelopment activities and investment;
- (c) identify **undeveloped areas** in the planning area, which are **not significantly constrained by environmental limitations** such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure, that could be developed;
- (g) identify **special critical environmental areas and other critical natural resource lands** where development should be limited. Section 11.a.(6)(emphasis added).

Preservation Area Assessment

For the Preservation Area, Section 12 of the Highlands Act requires “a **land use capability map** and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area, which shall be based upon, comply with, and implement the **environmental standards**” adopted by NJDEP and the **Resource Assessment prepared the Highlands Council** under Section 11. Section 12.(emphasis added).

Section 12 specifically requires implementation “that will ensure the continued, uniform, and consistent protection of the Highlands Region in accordance with the goals, purposes, policies, and provisions of this act, and shall include:

- a. a preservation zone element that **identifies zones within the preservation area where development shall not occur** in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights; and
- b. minimum standards governing municipal and county master planning, development regulations, and other regulations concerning the development and use of land in the preservation area, including, but not limited to, standards for minimum lot sizes and stream setbacks, construction on steep slopes, maximum appropriate population densities, and regulated or prohibited uses for specific portions of the preservation area. Section 12.(emphasis

added).

Preservation Area Requirements

The NJDEP's rules at N.J.A.C. 7:38-3.12 provides protection for unique or irreplaceable land types. In accordance with N.J.A.C. 7:38-3.12(d), NJDEP shall not issue a permit in the Preservation Area unless "the proposed activity would result in the minimum practicable degradation to a unique or irreplaceable land type or existing scenic attributes on the site or within the immediate area of the proposed project." This section defines "Existing scenic attributes" as "any State, county or municipal parks, forests, wildlife management areas and natural areas, any areas acquired for recreation and conservation purposes with Green Acres funding, program or a non-profit conservation organization, any lands preserved as open space by a non-profit conservation organization **and other areas as identified by the Highlands Council.**" N.J.A.C. 7:38-3.12(c)(emphasis added).

This rule implements the Highlands Act's protection requirements in the Preservation Area pursuant to Section 36.a(6) to ensure "minimal practicable degradation of unique or irreplaceable land types, historical or archaeological areas, and existing public scenic attributes at the site and within the surrounding area."

Local Participation Component

A component to provide for the maximum feasible local government and public input into the council's operations, which shall include a framework for developing policies for the planning area in conjunction with those local government units in the planning area who choose to conform to the regional master plan. Section 11.a.(3)(emphasis added).

Coordination and Consistency Component

A coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the regional master plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the Highlands Region may be integrated into the regional master plan. Section 11.a.(4)(emphasis added).

III. TECHNICAL BASIS AND JUSTIFICATION FOR STAFF RECOMMENDATIONS

In furtherance of the requirements and goals of the Highlands Act as summarized above, the Scenic Resource Protection Program component of the Resource Assessment element of the RMP is intended to further the protect the scenic resources of the Highlands Region. Identifying **Scenic Resources in the Highlands** is not a simple task because there is no single database including such information. Additionally, the physical limits of scenic resources are not easily defined, as is the case with many viewsheds where different vantage points can provide a variety of scenic vistas with aesthetic value.

The Resource Assessment associated with protecting scenic resources is to maintain the visual integrity and scenic beauty of noteworthy viewsheds and natural and cultural features of significance in the Highlands Region. In order to assess the scenic resources of the Highlands Region it is necessary to establish a protocol by which these resources are nominated and

evaluated. Although conservation groups, local communities, counties or state programs may support scenic resource protection, there is no existing unifying protocol or inventory established at a state or local level that may serve to support the Highlands Region. Therefore, it is important for the Council to adopt a policy for scenic resources that allows for the nomination, evaluation, and development of scenic resource management and protection measures at a regional scale. Those areas identified by the Highlands Council will be identified as **Scenic Resource Protection Areas** and will be subject to appropriate RMP policies and standards.

IV. GLOSSARY

This section defines the terms that are used to develop the approach and methods that informed the proposed policy actions for this RMP element. Topic specific glossaries will contribute to the general RMP glossary of terms.

Scenic Resource Areas - Scenic areas in the Highlands Region specifically identified by the Highland Council including sites and landscapes may be identified based on attributes such as prominent ridgelines, mountainsides or hillsides exhibiting significant topographic relief, scenic corridors containing important natural or cultural elements (i.e. trails and/or roadways), key scenic viewing locations, panoramic landscape vistas, historic structures and sites, agrarian character, any Federal, State, county or municipal parks, forests, wildlife management areas and natural areas, any areas acquired for recreation and conservation purposes with Green Acres funding, and any lands preserved as open space by a non-profit conservation organization. *N.J.A.C. 7:38-3.12(c)*.

Scenic Resource Protection Areas – Those areas identified by the Highlands Council as Scenic Resource Areas and other lands specifically identified by the Highland Council that are necessary for protection in order to maintain and enhance the designated Scenic Resource Areas resources.

Policy Consideration: **Significant Natural Area Protection Requirements**
Status: **For Consideration by the Highlands Council at**
September 14, 2006 Work session
Date: **September 11, 2006**

I. STAFF POLICY RECOMMENDATIONS

- 1) **Significant Natural Areas** will be included in the Regional Master Plan (RMP) to protect a site or area, typically with unusual or exemplary plant communities (such as the presence of rare or endangered plant species) that constitutes an outstanding example of that particular natural community type (such as bog, forest or geological feature). An inventory of Significant Natural Areas shall be established and maintained, and their protection areas shall be incorporated into the Land Use Capability Map.

Rationale: Significant Natural Areas include unique or exceptional examples of natural communities that possess significant biodiversity value whose regional significance are in need of protection. The Highlands Act includes specific goals 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. Sections 10. Section 11 of the Highlands Act requires a Resource Assessment of Highlands resources in order to maintaining the overall ecological values of the Highlands Region. The accurate delineation of Significant Natural Areas is important to protect exceptional natural communities. Protection areas of these sites include adjoining lands which were deemed needed to ensure their continued protection.

- 2) The following standards shall be incorporated into the **Regional Protection Zone** of the Land Use Capability Map (LUCM) in furtherance of the goals and requirements of the Highlands Act to protect and enhance Highlands resources, as follows:
 - Include all areas identified as a **Significant Natural Areas** to the maximum extent practicable.

Rationale: The Highlands Act requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12. An assessment of the extent of Significant Natural Areas facilitates an understanding of its regional significance to ensure that the level of protection afforded is adequate and appropriate. The results are used as one input to the Land Use Capability Map. Applicable Resource Protection and Smart Design standards can then be assigned to the extent they are appropriate and necessary to maintain ecological value.

- 3) The following **Resource Protection Standards** are recommended for the RMP in furtherance of the goals and requirements of the Highlands Act to protect and enhance **Significant Natural Areas**, including:
 - 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 Areas within municipal zoning and land use ordinances.
- Establish minimum requirements for incorporation of Significant Natural Areas within municipal and County Open Space Plans.

Rationale: The RMP Standards support the necessity to determine the amount and type of human development and activity the Highlands Region can sustain while still maintaining the ecological value of the Highlands Region. Section 11.a.(1)(a). The Highlands Act requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12.

- 4) The following **Smart Design Standards** are recommended for the RMP in furtherance of the goals and requirements of the Highlands Act to encourage appropriate conservation based design throughout the region, including:

- Require 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.

Rationale: The RMP Standards support the necessity to determine the amount and type of human development and activity the Highlands Region can sustain while still maintaining the ecological value of the Highlands Region. Section 11.a.(1)(a). The Highlands Act requires the development of Land Use Capability Map and minimum standards based upon the Resource Assessment and Smart Growth Component. Sections 11.a.(1) , 11.a.(6) and 12.

- 5) The following **Pre-Conformance Strategies** are recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP prior to the conformance period, including:

- 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.
- Establish minimum requirements and guidelines allowing for adjustments and revisions to Significant Natural Area boundaries.

Rationale: RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Highlands Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

6) The following **Conformance Strategies** are recommended in furtherance of the goals and requirements of the Highlands Act to ensure successful implementation of the RMP during the conformance period, including:

- 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.

Rationale: RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. Sections 11.a.(3), 14 and 15. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

7) The following **5-year Resource Protection and Planning Goals** are recommended in furtherance of the goals and requirements of the Highlands Act to ensure continued refinement and development of the RMP, including:

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

Rationale: The Highlands Act requires the Highlands Council to periodically revise and update the RMP at least once every six years. Section 8.a. RMP Implementation Strategies support the necessity to determine what activities, data and programs will be required of both the Council and municipal and county stakeholders during the Plan Conformance process as well as what initiatives will require longer term planning goals. The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region. Sections 11.a.(3), 14 and 15.

8) The following **Coordination and Consistency Considerations** are recommended to promote active participation in the implementation of the RMP among state and federal agencies:

- 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.

Rationale: RMP Implementation Strategies support the necessity to determine what local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the RMP. Sections 11.a.(4). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

- 9) The following **Local Participation Considerations** are recommended to promote the understanding and support for the RMP resource protection goals at the local level:
- Develop educational program for municipal officials on methods to identify and protect Significant Natural Areas.

Rationale: RMP Implementation Strategies support the necessity to provide for the maximum feasible local government and public input into the Highlands Council's operations. Section 11.a.(3). The RMP is a “living document” and will continue to be refined and developed in support of regional planning goals. In order to facilitate regional planning goals it is imperative that the RMP have State, County, and local support from all levels of government and the support of the stakeholders of the Highlands Region.

II. REQUIREMENTS OF THE HIGHLANDS ACT AND RMP GOALS RELATED TO SIGNIFICANT NATURAL AREA PROTECTION REQUIREMENTS:

Goals of the Highlands Act:

In accordance with Section 10 of the Highlands Act, the overarching goal of the Regional Master Plan “with respect to the entire Highlands Region shall be to protect and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act.” Section 10.a.

The Highlands Act establishes specific goals relating to protection of significant natural areas. Those goals with respect to the Preservation Area shall be to:

- protect, restore, and enhance the quality and quantity of surface and ground waters. Section 10.b.(1).
- preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the Highlands Region. Section 10.b.(2).
- 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.b.(3).

In addition, the goals with relating to protection of riparian areas with respect to the Planning Area shall be to:

- protect, restore, and enhance the quality and quantity of surface and ground waters. Section 10.c.(1).
- preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes. Section 10.c.(2).
- protect and maintain the essential character of the Highlands environment. Section 10.c.(3).

Requirements of the Highlands Act:

Resource Assessment

The Highlands Act includes specific requirements relating to protection of significant natural areas requiring the development of a Resource Assessment for the Highlands Region which “(a) determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof, with special reference to surface and ground water quality and supply; contiguous forests and woodlands; **endangered and threatened animals, plants, and biotic communities**; ecological factors relating to the protection and enhancement of agricultural or horticultural production or activity; air quality; and **other appropriate considerations affecting the ecological integrity of the Highlands Region.**” Section 11.a.(1)(a)(emphasis added).

Smart Growth Component

The Highlands Act also includes specific requirements relating to protection of significant natural areas requiring the development of a Smart Growth component that includes “an assessment, based upon the resource assessment prepared pursuant to paragraph (1) of subsection a. of this section, of opportunities for appropriate development, redevelopment, and economic growth, and a transfer of development rights program In preparing this component, the council shall:

- (a) prepare a **land use capability map**;
- (b) identify **existing developed areas** capable of sustaining redevelopment activities and investment;
- (c) identify **undeveloped areas** in the planning area, which are **not significantly constrained by environmental limitations** such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure, that could be developed;
- (g) identify **special critical environmental areas and other critical natural resource lands** where development should be limited. Section 11.a.(6)(emphasis added).

Preservation Area Assessment

For the Preservation Area, Section 12 of the Highlands Act requires “a **land use capability map** and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area, which shall be based upon, comply with, and implement the **environmental standards**” adopted by NJDEP and the **Resource Assessment prepared the Highlands Council** under Section 11. Section 12.(emphasis added).

Section 12 specifically requires implementation “that will ensure the continued, uniform, and consistent protection of the Highlands Region in accordance with the goals, purposes, policies, and provisions of this act, and shall include:

- a. a preservation zone element that **identifies zones within the preservation area where development shall not occur** in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights; and
- b. minimum standards governing municipal and county master planning, development regulations, and other regulations concerning the development and use of land in the preservation area, including, but not limited to, standards for minimum lot sizes and stream setbacks, construction on steep slopes, maximum appropriate population densities, and **regulated or prohibited uses** for specific portions of the preservation area. Section 12.(emphasis added).

In addition, Section 36 of the Highlands Act requires that NJDEP's permitting review approval without a waiver may be issued only upon a finding that the proposed major Highlands development:

- (1) would have a de minimis impact on water resources and would not cause or contribute to a significant degradation of surface or ground waters. In making this determination, the commissioner shall consider the extent of any impacts on water resources resulting from the proposed major Highlands development, including, but not limited to, the regenerative capacity of aquifers or other surface or ground water supplies, increases in stormwater generated, increases in impervious surface, increases in stormwater pollutant loading, changes in land use, and changes in vegetative cover;
- (2) would cause **minimal feasible interference with the natural functioning of animal, plant, and other natural resources** at the site and within the surrounding area, and **minimal feasible individual and cumulative adverse impacts to the environment** both onsite and offsite of the major Highlands development;
- (3) will result in minimum feasible alteration or impairment of the aquatic ecosystem including existing contour, vegetation, fish and wildlife resources, and aquatic circulation of a freshwater wetland;
- (4) **will not jeopardize the continued existence of species** listed pursuant to "The Endangered and Nongame Species Conservation Act," P.L.1973, c. 309 (C.23:2A-1 et seq.) or the "Endangered Plant Species List Act," P.L.1989, c. 56 (C.13:1B-15.151 et seq.), or which appear on the federal endangered or threatened species list, and **will not result in the likelihood of the destruction or adverse modification of habitat for any rare, threatened, or endangered species of animal or plant**;
- (5) is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety, and welfare;
- (6) would result in **minimal practicable degradation of unique or irreplaceable land types**, historical or archeological areas, and existing public scenic attributes at the site and within the surrounding area; and
- (7) meets all other applicable department standards, rules, and regulations and State laws." Section 36 (emphasis added)

Preservation Area Requirements

The NJDEP's rules at N.J.A.C. 7:38-3.12(a) provides that unique or irreplaceable land types include ecological communities that are identified in the Department's Natural Heritage Database, and vernal habitats. This rule implements the Highlands Act's protection requirements in the Preservation Area pursuant to Section 36.a(6) to ensure "minimal practicable degradation of unique or irreplaceable land types, historical or archaeological areas, and existing

public scenic attributes at the site and within the surrounding area.” The ecological communities that NJDEP identifies in the Natural Heritage Database are unique interacting assemblages of plants, animals and other organisms, their physical environment and the natural processes that affect them. For example, a calcareous fen is an ecological community that combines limestone formations that are themselves unique with plants specifically suited to life in this habitat.

The NJDEP’s rules at N.J.A.C. 7:5A (Natural Areas System Rules) detailed procedures for classification and designation of natural areas, development of management plans, allowable uses and practices, procedures for conducting research and scientific activities, and revising boundaries. This rule implements the Highlands Act’s protection requirements in the Preservation Area pursuant to Section 36.a(6) to ensure “minimal practicable degradation of unique or irreplaceable land types, historical or archaeological areas, and existing public scenic attributes at the site and within the surrounding area.”

The NJDEP’s rules at N.J.A.C. 7:38-3.11 prohibits development or activity if it will jeopardize the continued existence of species listed pursuant to "The Endangered and Nongame Species Conservation Act," P.L.1973, c. 309 (C.23:2A-1 et seq.) or the "Endangered Plant Species List Act," P.L.1989, c. 56 (C.13:1B-15.151 et seq.), or which appear on the federal endangered or threatened species list, and will not result in the likelihood of the destruction or adverse modification of habitat for any rare, threatened, or endangered species of animal or plant. This rule implements the species protection requirements in the Preservation Area pursuant to Section 36.a(4).

The NJDEP’s rules at N.J.A.C. 7:38-3.6 requires a 300-foot buffer adjacent to Highlands open waters in which no disturbance is permitted with the exception of linear development, which shall be permitted provided that there is no feasible alternative for the linear development outside the Highlands open water or Highlands open water buffer. See N.J.A.C. 7:38-3.6(b). This rule implements the 300 foot requirement in the Preservation Area pursuant to Section 34.a.

Local Participation Component

A component to provide for the maximum feasible local government and public input into the council's operations, which shall include a framework for developing policies for the planning area in conjunction with those local government units in the planning area who choose to conform to the regional master plan. Section 11.a.(3).

Coordination and Consistency Component

A coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the regional master plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the Highlands Region may be integrated into the regional master plan. Section 11.a.(4).

III. TECHNICAL BASIS AND JUSTIFICATION FOR STAFF RECOMMENDATIONS

In furtherance of the requirements and goals of the Highlands Act as summarized above, the Significant Natural Area Protection Requirements of Ecosystem Management element of the RMP are intended to protect the natural resources of the Highlands Region, including but not limited to critical habitat for fauna and flora.

The NJDEP Office of Natural Lands Management (ONLM) has identified 95 critically important natural areas (Natural Heritage Priority Sites) in the Highlands Region that are important to conserve New Jersey's biological diversity, utilizing the NJ Natural Heritage Database. The database provides detailed information on rare species and natural communities. The Natural Heritage Priority Sites identify the best habitats for rare plant and animal species and natural communities.

The Significant Natural Area Protection Requirements of the RMP includes identification of those Natural Heritage Priority Sites that occur within the Highlands Region. Those sites are the basis for delineation of the Region's Significant Natural Areas.

Protection requirements for Significant Natural Areas shall integrate NJDEP rules at N.J.A.C. 7:38-3.12, which provide that a regulated activity would result in "minimal practicable degradation of unique or irreplaceable land types, including ecological communities that are identified in the Natural Heritage Database. Such unique communities cannot be replaced and NJDEP believes that these are the types of areas intended for protection under the provisions of the Highlands Act."

Protection requirements for Significant Natural Areas shall integrate NJDEP rules which do not authorize a Highlands Preservation Area Approval if development or activity will jeopardize the continued existence of a rare, threatened or endangered plant or animal species or that would result in the likelihood of the destruction or adverse modification of habitat for such species (N.J.A.C. 7:38-3.11).

Protection requirements for Significant Natural Area shall integrate general provisions of the Natural Areas Act (N.J.A.C. 7:5A). The Natural Areas Act created a system for the natural features of the state, setting aside certain ecologically significant areas using a stricter set of rules than those governing other state-owned lands. Applicable statutes include:

- lands may not be sold, leased or exchanged, and they may not be altered in any way without the approval of the DEP,
- Although boundary revisions are possible, only legislation may remove an area from the System,
- When an area becomes part of the System, a comprehensive management plan shall be drafted and adopted to ensure the continued protection of the ecosystems and species found within the area.

The purpose of this element is to recommend protection requirements of the Highlands Significant Natural Areas for inclusion in the RMP and Land Use Capability Map based on the following actions in furtherance of the requirements and goals of the Act:

- identify Significant Natural Areas and provide the framework for incorporation of these sites into the RMP and Land Use Capability Map.
- identify appropriate land use planning and management strategies that can help preserve these sites.

These approaches are based on the best available science and the results of the Resource Assessment performed in support of the RMP, and reinforced through the scientific literature and existing state or federal regulatory programs, where applicable. In addition, as required by Section 12 of the

Highlands Act for the Preservation Area, these approaches are based upon, comply with, and implement the environmental standards adopted by NJDEP and the Resource Assessment performed by the Highlands Council. This requirement of the Highlands Act authorizes the Highlands Council to integrate results of these two elements of the Act into a unified approach for the protection of Highlands resources.

IV. GLOSSARY

This section defines the terms that are used to develop the approach and methods that informed the proposed policy actions for this RMP element. Topic specific glossaries will contribute to the general RMP glossary of terms.

Endangered Species - Endangered species are species included on the list of endangered species that the Department promulgates pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-13 et seq., and the Endangered Plant Species List Act, N.J.S.A. 13:1B-15.151 et seq., and any species or subspecies of wildlife appearing on any Federal endangered species list or any species or subspecies of plant designated as listed, proposed, or under review by the Federal government pursuant to the Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq. *N.J.A.C. 7:38-1.4*.

Low Impact Development (LID) Best Management Practices – Low Impact Development is an environmentally sensitive approach to storm water management that emphasizes conservation and the use of existing natural site features integrated with distributed, small scale storm water controls to more closely mimic natural hydrologic patterns in residential, commercial and industrial settings. LID best management practices involve comprehensive land planning and engineering design to maintain and enhance the hydrologic regime of urban lands and development within watersheds. LID standards and best management practices are supported by the New Jersey Stormwater Management Rules, *N.J.A.C. 7:8* and the “New Jersey Stormwater Best Management Practices Manual” developed by the New Jersey Department of Environmental Protection, in coordination with the New Jersey Department of Agriculture, the New Jersey Department of Community Affairs, the New Jersey Department of Transportation, municipal engineers, county engineers, consulting firms, contractors, and environmental organizations.

Natural Area Protection and Management Plan - A planning document developed at a site level that includes protection requirements and stewardship goals for a specific Natural Area.

Rare Species – Those species that are not endangered or threatened wildlife species and considered by the Department to be species of special concern as determined by a panel of experts or that are ranked S1 (critically imperiled in New Jersey because of extreme rarity), S2 (imperiled in New Jersey because of rarity), S3 (rare in New Jersey), G1(critically imperiled globally), G2 (imperiled globally because of rarity) or G3 (globally very rare and local throughout its range or found locally in a restricted range) in the Natural Heritage Database, and Plant Species of Concern listed pursuant to N.J.A.C. 7:5C-3.1. "Species of special concern" means wildlife species that warrant special attention because of evidence of population decline or inherent vulnerability to environmental deterioration or habitat modification that would result in the species becoming threatened if conditions surrounding the species begin or continue to deteriorate. The term includes species for which there is little knowledge of current population status in the State. *N.J.A.C. 7:38-1.4*.

Significant Natural Area – An area within the Highlands that includes unique or exceptional examples of natural communities or geological formations including habitat that possess significant biodiversity value whose regional significant is in need to protection.

Threatened species - An indigenous nongame wildlife species of New Jersey designated pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-13 et seq., and its implementing rules, N.J.A.C. 7:25- 4.17, as most recently amended. *N.J.A.C. 7:38-1.4.*

HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL SUMMARY OF THE PUBLIC AVAILABILITY SESSION - SEPTEMBER 14, 2006

At 10:15 pm on September 14, 2006, immediately following the meeting of the Highlands Water Protection and Planning Council, Chairman John Weingart convened a public availability session. Joining him were Council members Debbie Pasquarelli, Tim Dillingham, Mimi Letts, and Tracy Carluccio. Also present were several members of the Council staff including Tom Borden and Patty Sly. About twenty members of the public were present including eight who offered comments which are summarized below.

Julia Somers, Highlands Coalition. Ms. Somers read a quote from written comments submitted by the Coalition regarding Historic and Cultural Resources. She stated that it was a huge challenge to evaluate and protect historic resources given the limited data available and cautioned the Council that discovery of new resources would be likely. Ms. Somers also presented summarized written comments submitted by the Audubon Society regarding Significant Natural Areas, emphasizing that the identification and delineation of Significant Natural Areas in an iterative, ongoing process. Lastly, Ms. Somers spoke on behalf of the Coalition on waste water treatment urging the Council to recommend that the DEP cap pollutant loadings at current levels and not allow new sewer hook ups without updated plans and the DEP do away with annual flow averages.

Wilma Frey, New Jersey Conservation Foundation and the Highlands Coalition. Ms. Frey complimented the scenic resources discussion saying there were many good ideas. She stated that an implementation mechanism was needed and that the Council must start with a list of the most obvious resources including the existing park land, preserved farmland, wild and scenic rivers, scenic byways, reservoirs and trails. She suggested the development of an evaluation tool for people to give input and make suggestions. She recommended identifying resources that are regional in nature and developing a way to assist municipalities in identifying the non-regional resources.

Scott Olson, Byram Township. Mr. Olson commented on septic management, stating that Byram requires 3 year pumping, inspections, etc. He said it can be done with proper education and fee schedule and that the Byram program has been successful and reduced septic failures.

Monique Purcell, Department of Agriculture. Ms. Purcell referred to Council discussion of the 600 foot buffer imposed by the Pinelands Commission and wanted to be sure the Council was aware that the buffer was adopted for only a limited part of the Pinelands National Reserve in the Toms River area and was based upon a two-year study. She also addressed the issue of clustering stating that clustering with the 80% set aside is very valuable for continuing support for farming and is a central tenet of the Pinelands Plan.

Sue Buck, Oxford. Ms. Buck stated that she is in agreement with a lot of what previous commenters have said, but is disappointed that there appears to be very little in the way of new data. She is concerned that the Plan won't identify TDR receiving areas and that if it is left to the municipalities, it won't happen. Without this level of detail the TDR program won't be viable. At best, she said, the TDR program is still 2 years out which is too long to wait. The lack of information makes it impossible to identify potential receiving zones.

Helen Heinrich, New Jersey Farm Bureau. Ms. Heinrich had process questions asking when to submit comments and on which drafts (she was encouraged by Mr. Weingart to submit comments on current drafts) and suggesting that maps be displayed during the meetings to assist the public if She said she was impressed with how careful the Council has been to use established databases and cautioned that it is risky to add to these lists. She recommended setting up a process for additions and modifications. Regarding economic indicators, she expressed concern that the Council was using the Pinelands model because the Pinelands does not separate data in towns that are split in and out the region. This skews the data and subsequent interpretations. She recommends the Council include an agriculture indicator and one or two additional broad economic indicators such as retail sales or corporate earnings.

David Shope, Long Valley. Mr. Shope opposes the idea of a nominating process for historic areas as an infringement of property owner rights, absent a full blown inquiry with notification to the property owner and the potential for civil penalties against the nominator. Regarding economic indicators, he suggested the need to measure subtraction of net worth and devaluation of property. Mr. Shope requested an accounting of the realty transfer money allocated to the Highlands. He stated that the agriculture viability numbers do not bode well and should be based on pre-Act values. He suggested the public hearings be structured to allow property owners one minute per preservation acre of land owned. Lastly, he suggested that the Council members and staff explain any use of acronyms so that members of the public will understand, for example, what is being said when phrases like "TMDL*" are used. (*total maximum daily load)

Hank Klumpp, Tewksbury. Mr. Klumpp praised the Council members for their time and dedication. He was disappointed that the Governor had not taken questions and comments from the members of the public at the meeting and criticized the Council for adding this "public availability" session to its workshop meetings rather than continuing the comment periods that were provided during the Council's previous meetings. He criticized the GSPT as offering just pennies on the dollar and stated that the Governor should have taken comments from the public. He also urged the Council to hold more meetings, like this one, in the evening. He stated that the public comment after draft release should be 6 months. He stated that in the last 2 years there have been no private farm sales and now they must wait another 2 years; four years is simply too long. The Legislature passed the bill with the intent to do no harm, but that has not been the case.

There being no further comment from the public, the meeting adjourned at 10:45 p.m.