

MINUTES

NEW JERSEY HIGHLANDS COUNCIL MEETING OF FEBRUARY 23, 2006

PRESENT:

JOHN WEINGART)	CHAIRMAN
KURT ALSTED)	COUNCIL MEMBERS
ELIZABETH CALABRESE)	
TRACY CARLUCCIO)	
LOIS CUCCINELLO)	
JANICE KOVACH)	
MIMI LETTS)	
DEBBIE PASQUARELLI)	
JACK SCHRIER)	
BEN SPINELLI)	
GLEN VETRANO)	
SCOTT WHITENACK)	

ABSENT:

TIM DILLINGHAM)
MIKAEL SALOVAARA)

The following are the minutes from the New Jersey Highlands Council meeting which was held at 100 North Road, Chester, New Jersey on January 23, 2006 at 4:00 p.m.

CALL TO ORDER:

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

CHAIRMAN'S REPORT:

Mr. Weingart noted that the time for the meeting was changed from 10:00 to 4:00 to accommodate committee needs. He further noted that the next Council meeting originally scheduled for March 16th, will now be held on March 9th at 4:00 p.m. Mr. Weingart also advised that the April 6th and 20th meetings will also begin at 4:00 p.m., not 10:00 a.m. He apologized to any who did not know about the time change for today's meeting and advised that the Highlands new website does contain the updated meeting schedule.

Mr. Weingart said that since a great deal of work must be completed between now and the adoption of the Regional Master Plan, that for the next several Council meetings he would like to consolidate the usual two public comment periods into one period at the end of Council meetings. He noted that from this point forward Council meetings should be considered work sessions with regard to format. Mr. Weingart advised that the public will continue to be afforded the opportunity to give their comments on any proposed resolutions the Council considers prior to Council vote. If necessary the meetings would go back to having two separate public comment periods. Mr. Weingart asked if any members had comments.

Mr. Kurt Alstede noted his desire for keeping two separate public comment periods. Mr. Scott Whitenack said that he thought the Chairman's proposed format change was necessary. Ms. Debbie Pasquarelli noted that she would like the change to be noted as temporary.

Chairman Weingart advised that the meeting agenda had one item which would not be covered, Item 12, since there were currently no grants to any municipalities or counties to consider.

APPROVAL OF MINUTES (February 9, 2005):

Mr. Jack Schrier made a motion to approve, Mr. Glen Vetrano seconded, all were in favor, APPROVED.

Chairman Weingart asked if any members had reports.

Mr. Schrier asked that the Council consider the formation of a Mayors Advisory Committee. This proposed Committee would provide mayors in the Highlands Region the opportunity to meet in a more formal setting to discuss the issues they face as local elected officials. Mr. Schrier said that mayors have expressed their desire to hold meetings that would facilitate input from their perspective to prepare for the creation of the Regional Master Plan. Mr. Schrier advised that he would like to move ahead in creating this committee and that the Local Participation Committee would handle scheduling meetings.

Ms. Pasquarelli noted that the Highlands Council is under a demanding time frame to develop the Regional master Plan and that the existing shortage of staff may be problematic. She then asked for further details on what would be covered by this proposed committee. Mr. Weingart asked that the Local Participation Committee schedule a meeting to fully discuss the details and report back to the full Highlands Council. He then asked Mr. Dante Di Pirro to give the Executive Director's report.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Di Pirro thanked the Chairman and the members of the Council for selecting him as Executive Director and noted that he appreciated the trust being placed in him.

Mr. Di Pirro advised that the Highlands Tax Stabilization Board met the week before to discuss the protection of municipalities against diminution of property valuation for vacant land. The Board considered the first request for reimbursement by the municipalities in the Highlands Region. Mr. Di Pirro noted that at the meeting it was found that 6 of the 7 Highlands counties concluded that at this time they could not seek reimbursement for diminution of vacant land values because given the fact that the Region Master Plan is under development and additional information would be necessary to determine specific impacts on vacant land.

Mr. Di Pirro reported that the Passaic County Tax Board submitted an application for \$88,000 in claimed tax losses for vacant land in four municipalities. The Tax Stabilization Board considered this application and approved the amount requested with the information that was available. The Board noted that since the Regional Master Plan is under development that in the future they would seek additional documentation as to valuation before reimbursements would be provided. Mr. Di Pirro noted that by the next tax cycle the Regional Master Plan will be in place, and will provide the Board with sufficient information to base reimbursement applications upon.

Mr. Di Pirro next reported that the Army Corps has advised it has the opportunity to apply for funding to conduct water resource management research and studies for the four-state region of the Highlands. On February 9th, Chairman Weingart Council sent a letter indicating the Council's support for such a project.

Mr. Di Pirro also noted that the federal Highlands Conservation Act called for \$10 million to be provided each year for a ten year period for Highlands land acquisition projects across the four Highlands states. In 2004, President Bush signed the law and since then limited funding has been made available. This year's proposed budget includes a line item of \$2 million to be shared by the four states. The staff recommends the drafting of a letter requesting the full amount and will prepare a letter for the Chairman's signature requesting this funding. The letter could be completed for the Council's consideration by the next Council meeting on March 9th.

Mr. Di Pirro advised that the Highlands Conservation Association is a new group formed by land owners which met and invited the Highlands staff to attend in order to hear concerns regarding the Highlands Act. Mr. Di Pirro advised that he and Mr. Steve Balzano attended as did Council members Pasquarelli and Kovach. He said it was helpful to hear their concerns and staff made note of their views. Ms. Pasquarelli noted that while Highlands Council representatives did not speak at the meeting, the Association had offered the opportunity to be placed on the meeting agenda.

Mr. Weingart opened a public comment period, at which time Mr. Schrier left in order to attend another meeting.

PUBLIC COMMENT PERIOD:

Steve Shaw, representative for Warren and Hunterdon County Freeholders. Mr. Shaw advised that he brought a copy of their comments as submitted to the NJDEP on its proposed regulations. He noted that it was their belief that the Highlands Act is unconstitutional and that the written comments submitted

included experts reports. Mr. Shaw advised that they have raised substantive issues with the NJDEP rules, and hopes that the Council will carefully review the comments which are in CD format.

Hank Klumpp, Tewksbury Township. Mr. Klumpp is a farmer who owns 150 acres in the Preservation Area. He believes his property has been taken from him and his family. He would like to know where the scientific data is that supports the placement of his property into the Preservation Area. Mr. Klumpp said the regular population outside the Highlands region is unaware of the restrictive nature of the NJDEP regulations and believes that the Highlands Act is a legal theft of property.

Elizabeth George-Cheniara, staff attorney for New Jersey Builders Association. Ms. George-Cheniara noted there are concerns about future housing needs in the Highlands Region. She stated that she hasn't heard yet where development will occur, but that there is a serious need for housing in New Jersey. She said that census data for Morris shows that roughly 100,000 young adults live in the Highlands, and that as families grow and age there may not be sufficient housing to support the growth. She provided her comments in writing to the Council.

Doug Williams, Flanders. Mr. Williams thanked the Council members that attended a meeting at Warren Hills High School a few nights before. He noted that he believes the Highlands Act is unreasonable because it is forced on the residents. The future for the children in the region concerns Mr. Williams. He said that several generations of his family have collectively spent 100 years caring for and preserving the land they own. Mr. Williams would like to know how property owners will be compensated for their losses.

Ms. Mimi Letts noted that there will be a TDR presentation by staff which would provide some information that Mr. Williams could find helpful. Mr. Di Pirro noted that the developing TDR program will allow residents who choose to preserve their land to be compensated for the transferred development rights and that the TDR receiving zones that received increased density also will provide planning grants and impact fees to participating municipalities.

Sylvia Kovacks, Warren County, Independence Township Planning Board. Ms. Kovacks thanked the staff for attending a recent meeting with the Independence Township council and its planning and zoning boards. She said Highlands staff gave a detailed presentation and thanked Mr. Balzano and Mr. Borden. She also thanked Mr. Schrier for his letter which was printed in the Daily Record. Ms. Kovacks encouraged other Council members to also submit their views to newspapers to aid in clearing up misinformation. She said since many people are not in a position to attend multiple Council meetings, they may not have a full grasp of what is being done and thought the press is a great way to educate the public.

Robert Frey, farmer. Mr. Frey said the Act has taken away his retirement and that he is upset over the NJDEP regulation which assesses civil administrative penalties upon landowners who impede the inspection of their private property by the government. Mr. Frey said that the provision is unconstitutional.

Andy Drysdale, Chester. Mr. Drysdale said that the boundary outlining the Preservation Area as compared to the boundary of watersheds, shows that the preservation area extends far beyond the watersheds. He said that septic technology could be researched further because better technology may exist to prevent the pollution of groundwater. He provided his comments in writing to the Council.

Joy Farber, representative of ANJEC. She respects the opinions of farmers like Mr. Klumpp but pointed out that his concerns appear to be that the Highlands Act is unconstitutional and said that since the Council is not empowered to change the legislation, perhaps he should address the Legislature. Ms. Farber said she advocates the Council's interaction with municipalities because elected officials need to be fully informed of what will be expected of them once the Regional Master Plan is adopted. She thought that towns will conform if they know what to do. She supported what Mr. Schrier proposed in forming a Municipal Advisory Committee and asked that the Council do so. Ms. Farber added that her interaction with the Council staff has been more than helpful and commended them on their work.

James Kessler, farmer, Mansfield Township. Mr. Kessler asked that the Council pay specific attention to the comments submitted by farmers regarding the NJDEP regulations. Mr. Kessler said that he intends to submit a written response to Mr. Balzano because he has some confusion pertaining to the agricultural lands provisions and the definition of agricultural lands.

Susan Buck, Oxford. Ms. Buck thanked the Council for coming to Warren County several times over the last week. She hopes for more two way dialogue and asked that there be additional meetings to facilitate productive planning. Ms. Buck said that the NJDEP regulations are very lengthy and that she seeks the support of the Council in interpreting them.

COMMITTEE REPORTS:

Mr. Weingart said the **Personnel Committee** met earlier in the day, and will go into Executive Session later in order to follow up on issues raised there.

Mr. Spinelli, Chair of the **Smart Growth and Economic Development Committee** reported that the committee held a meeting earlier that day at the Chester office. He noted that Mr. Ross MacDonald will give a power point presentation later on regarding the financial component of the Regional Master Plan.

Mr. Spinelli noted that the Committee meeting centered on the identification of sending zones and voluntary receiving zones under the developing Highlands TDR program. The proposed language will be presented later to the full Council for consideration along with a draft Resolution. Mr. Spinelli noted that the Committee developed sending zone criteria to be as broad as possible in order to allow as much opportunity for affected property owners in the Preservation Area to fall within the criteria. Mr. Spinelli said that this approach would better serve the public by including lands that are agricultural, forested, environmentally sensitive, commercial and industrial to be eligible as sending areas eligible for the Highlands TDR program.

Mr. Spinelli advised that the public needs to be able to understand the criteria and that the Committee worked hard to make them as clear as possible. He noted that it is the hope of the Committee to bring money from the private sector into the preservation picture with work with county, municipal and state programs with TDR as the method of addressing landowner equity concerns.

Mr. Spinelli said the Committee created the voluntary receiving zone criteria with narrative standards because given the need for additional information before specific areas may be identified. He went on to state that there will be ample lands available for voluntary receiving zones within the seven county Highlands region totaling 1.2 million acres.

Mr. Weingart asked Mr. Balzano to outline the proposed resolution identifying TDR zones.

CONSIDERATION OF RESOLUTION IDENTIFYING TRANSFER OF DEVELOPMENT RIGHTS SENDING AND RECEIVING ZONES (voting matter with public comment):

Mr. Balzano provided an overview of the proposed resolution. He noted that the staff and Smart Growth Committee have developed narrative criteria for sending zones and voluntary receiving zones areas and that the proposed resolution enumerates the requirements set by the Legislature to adopt a method of identification as well as the criteria recommended by the Smart Growth Committee at its meeting earlier in the day.

He advised that the criteria are as inclusive as possible with respect to landowners in the Preservation Area who have been affected by adoption of the Highlands Act and that the Highlands TDR program is primarily intended to address these landowners in terms of their concerns as to lost land equity.

Mr. Balzano advised that sending area criteria includes all lands in the Preservation Area that had development potential which have been adversely affected by the Highlands Act. There is a provision in the sending area criteria that allows the Council at its discretion to exclude properties which had redevelopment potential within the Preservation Area prior to the date of the Highlands Act. He stated that the Act acknowledges those properties in the Preservation Area that constitute redevelopment areas are areas that existed as developed areas with greater than 70% impervious cover, or were brownfield sites which had development potential prior to the effective date of the Act. Based upon redevelopment potential those areas will be excluded from the sending area criteria. Mr. Balzano noted there is a provision which allows the Council to change the criteria as new and additional information becomes available as the regional master plan development continues to develop.

Mr. Balzano advised the voluntary receiving zone criteria is general and broad providing maximum opportunity for development of TDR receiving areas. He emphasized that receiving areas under the Highlands Act are not only within the Planning Area but that receiving can take place in any one of 213 municipalities within the seven county Highlands Region. He noted that development would need to be consistent with the goals and purpose of the Act, and avoid adversely impacting the resource protection goals. Receiving areas need to have access to multi-modal transportation based on existing transportation networks, and are proximate to areas of concentrated development, population centers, or lands that are underutilized or previously developed. Mr. Balzano noted there is a provision within the criteria that allows the Council to make changes as new and additional information becomes available. Mr. Balzano advised that the staff and the Committee recommend approval of the resolution.

Mr. Weingart noted that the resolution contained in the members' meeting packets was changed that day after the committee met and subsequently revised the resolution. The revised resolution was provided to the members to review.

Mr. Spinelli added with regard to his earlier comment about incrementally adding to the TDR sending zones, once the Regional Master Plan is completed, allowing sending areas in the Planning Areas if they are identified as environmentally sensitive. He said that sending zones may not be solely limited to the Preservation Area and there may be appropriate Planning Area lands eligible to be sending areas.

Mr. Spinelli also advised that the criteria for voluntary receiving zones should serve as a notice to municipalities that wish to be voluntary receiving areas. Towns can review and identify with the criteria outlined, and use it as a guide as to the parameters for receiving so that they can take maximum

advantage once the Highlands TDR program is initiated. Mr. Spinelli stressed that appropriate base zoning and the ability to sustain additional density above this base zoning needs to be in place to ensure municipalities will be eligible for the Highlands TDR program.

Mr. Weingart asked if there was a motion to adopt the revised resolution now before the Council. Mr. Spinelli made a motion to adopt, Ms. Cuccinello seconded. Mr. Weingart asked if there were comments.

Mr. Vetrano expressed concern that the new resolution dropped designating town centers as areas for receiving zones. He noted that although the definitions as proposed initially are intentionally broad, he would like to be certain that town centers have an opportunity to be designated as receiving areas. Mr. Balzano responded that the Committee recommended to initially including center designations as an initial indicator of where receiving may be appropriate. He said that the Committee recommendation to remove that language to be more inclusive recognizing that the Regional Master Plan may support, and in some instances may not support, increased density in particular State planning center designations. He noted that as the Regional Master Plan moves forward, there will be an opportunity to reexamine areas and determine to what extent the density increases which are necessary for TDR, clarification will be provided. The issue of consistency between the State Plan and the regional master plan will need to be addressed. Mr. Vetrano noted that counties and town centers need to have some assurance that they have as many equity options as possible.

Ms. Pasquarelli asked about the specific language contained in the Highlands Act that addresses pre-existing centers. Mr. Di Pirro advised that pre-existing centers are within the Planning Area and that the Act states that the municipalities will work together with the Council to examine existing centers to determine if they are appropriate receiving zones. Mr. Borden advised that the Smart Growth Committee discussed the obligation under the TDR section of the Act which requires coordination with local and statewide entities including the State Planning Commission in identifying areas appropriate for receiving. Of importance, he noted that some centers may have already increased their base density whereby TDR could be problematic. In contrast, other centers have a low level of density and therefore they could increase and participate in TDR. He noted there will be a need to coordinate and examine density issues, infrastructure issues, smart growth and economic feasibility factors. Mr. Borden added that in all likelihood centers in Planning Areas could be areas qualified under the criteria, but the resolution basically points out there is a need to examine feasibility as pertains to the Highlands TDR program.

Mr. Di Pirro noted that it could prove helpful to repeat language contained in the statute which Mr. Jeff LeJava provided. Mr. Di Pirro read aloud to the Council pertinent language contained within Section 13 of the Act which states: ...“the Council shall work with municipalities and the State Planning Commission to identify centers that are designated by the State Planning Commission as voluntary receiving zones...” Mr. Di Pirro noted that this language could be inserted into the resolution for clarification purposes.

Mr. Weingart and Mr. Vetrano agreed that the language Mr. Di Pirro and Mr. Borden identified from Section 13 of the Act would be helpful, and suggested that it be added as the eighth Whereas clause in the draft resolution, and also should be added to the list of criteria as number 4 of the resolution's attachment.

Mr. Spinelli accepted the requested changes, and motioned to approve. Mr. Di Pirro further noted for clarification purposes that on page 3 of the resolution, the word “or” which appears at the end of paragraph 3, should come at the end of paragraph 2. Mr. Weingart asked if there were comments from public.

David Shope, Long Valley. Mr. Shope stated with regard to receiving areas adjusting their zoning in the Preservation Area, he asked whether this would preclude economic viability and worried that landowners could have no market.

Wilma Frey, NJ Conservation Foundation. Ms. Frey thought that the resolution should be more specific as to areas suitable for development because it may be too broad. She thought municipalities may not know by looking at the resolution what an area suitable for development means.

Jeff Broadhurst, Bloomsbury. Mr. Broadhurst said that the people who are most affected are those who are in the dark and not considered a stakeholder. He said he feels that landowners are not considered stakeholders and that TDR is critical to him. Mr. Di Pirro said the Smart Growth Committee is preparing meetings currently to optimize public input and the meetings will include farmers and landowners. Mr. LeJava noted that the criteria are intentionally broad at this point to include any and all who have had their lands affected and answers the question who of will be able to participate as a sender.

No further comments were received. On the prior motion made and seconded with the accepted revisions and additions, all were in favor, APPROVED.

CONSIDERATION OF RESOLUTIONS TO APPROVE CONTRACTS TO DEVELOP THE REGIONAL MASTER PLAN:

Mr. Weingart, Chair of the Plan Development Committee, reported that this Committee and the Budget and Finance Committee met earlier in the day to review four proposed contracts and asked Mr. Balzano to summarize the four contracts for Council consideration.

The proposed contract with **Vertices LLC**, will create web-based applications allowing for the exchange of information between the public and the Council. The public will be able to view properties and submit applications for information to be placed on the web which will not only enhance interaction but also promote the exchange of more current information and data. The contract amount recommended by the staff, Plan Development Committee, and the Budget and Finance Committee is not to exceed \$35,600.

Mr. Roger Keren gave a power point demonstration of two examples which illustrated the capabilities of the program. The data management system would be parcel based and could be expanded upon. The second part of the power point demonstrated the data exchange capabilities which could help identify scenic and historic areas.

Mr. Keren noted the public would be able to search the system by entering their address to determine whether the property is in the Preservation Area or the Planning Area. The parcel will come up with a list of information including zoning and definitions of what that zoning for the property is. The data exchange will allow the public to add details about their property as well as the capability to exchange information with the Council.

Mr. Weingart advised that an administrator would oversee the site and ensure accuracy of all data contained on the site. Mr. Balzano noted it provides an opportunity for the public to participate directly with the Council and will provide the vehicle for scenic and historic sites to be accurately noted. Mr. Weingart asked if there were comments.

Susan Buck thought it was too expensive and that she had privacy concerns about who will submit information about her property.

David Shope said that he had concerns about the potential habitats for endangered species being identified incorrectly by the public and wants to know about the administration of the site.

Jerry Kern did not feel comfortable knowing that the public can see pictures of his property through the program.

Mr. Weingart noted that the information the Council has is already public. Mr. Balzano advised that as the program is developed the identification process will also be developed. Mr. Alstede said he wants to learn more regarding the details for processing and determining the accuracy of information which the Council receives to ensure that content is accurate. Mr. Balzano advised that the administrative process will be against misinformation and that the contract was separable and \$15,000 was allocated for the interactive portion of the contract. Ms. Letts said she wanted the resolution modified to preclude information from being posted without verification and to remove that portion. Mr. Vetrano motioned for approval of the revised resolution, Mr. Alstede seconded. The amended resolution with Vertices, Inc. would now separate and not approve the portion that concerns the public interaction portion for \$15,200, with the new total amount not to exceed \$20,400. All were in favor, APPROVED.

Mr. Balzano stated regarding the contract with **Hatch Mott MacDonald** for the second phase of the utility capacity assessment, the staff as well as the Plan Development and Budget and Finance Committees recommend approval in an amount not to exceed \$60,000. Mr. Weingart asked if there were any comments and none were received.

Ms. Kovach motioned to approve, Ms. Calabrese seconded, Ms. Letts and Ms. Pasquarelli abstained, all others were in favor, APPROVED.

Mr. Balzano stated regarding the contract with Rutgers and the **National Center for Neighborhood and Brownfield Redevelopment**, the modification would allow for assistance with data quality assurance and functions on an as needed basis. He advised that the staff, Plan Development and Budget and Finance Committees recommend approval in an amount not to exceed \$14,100. Mr. Weingart asked if anyone wished to comment and none did.

Ms. Letts motioned to approve, Ms. Pasquarelli seconded, all were in favor, APPROVED.

Regarding the new contract for Lidar Mapping with the **United States Army Corps of Engineers**, which will provide for aerial flyovers during leaf-off conditions to gather digital elevation data to two-foot elevations was for an amount not to exceed \$302,000, with the need to obtain federal participation. Mr. Balzano advised the contract has been reviewed and recommended for approval by the staff as well as the Plan Development and Budget and Finance Committees.

Ms. Pasquarelli made a motion to approve, Ms. Kovach seconded the motion. Mr. Weingart asked if there were any comments.

Mr. Steve Shaw asked to clarify what the total amount granted to date was for contracts awarded for plan development. Ms. Pasquarelli responded that currently \$1,286,059 has been approved, and that the contracts awarded today totaled \$411,700, however \$15,200 of that total was not approved. No further comments were received.

On the prior motion made and seconded, all were in favor, APPROVED.

Mr. Weingart then asked Mr. Mac Donald to give his presentation on the financial component of the Regional Master Plan.

PRESENTATION:

Mr. Balzano advised that Mr. Mac Donald is developing the financial component for the plan and will give an overview and power point presentation.

Mr. MacDonald noted that a very large amount of data and that economic assessments is under development and that it will be necessary to complete this data collection before the overall policy implications may be analyzed. His presentation outlined the various elements of the financial component of the Regional Master Plan including: a Cash Flow Timetable, Fiscal Impact Analysis, Property Tax Analysis, and the Economic Benefits of Open Space Preservation. Mr. MacDonald's demonstration also included charts outlining statewide property transactions and cash flow timetables. Factors such as population, employment, land transactions, income, assessed values, new development rates and tax rates are all being studied in detail.

Ms. Pasquarelli asked whether the information gathered to date regarding the property tax assessment confirms the notion of the ratables chase in that "higher density equals higher taxes." Mr. MacDonald noted that the assessment will examine what has happened to tax rates in towns where the population has increased. Mr. Weingart asked how the financial elements will relate to the Regional Master Plan. Mr. MacDonald responded that the financial information may be used to assist with the policies of the Plan and will inform land use planning and preservation.

At that point in the meeting, Ms. Carluccio, Mr. Vetrano and Mr. Whitenack had to leave the meeting. Mr. Weingart opened a public comment period.

PUBLIC COMMENT PERIOD:

Bill O'Hearn, Highlands Coalition. Mr. O'Hearn said that the Tax Board in Passaic was the only county to alter assessments based on the Highlands Act. He believed they fed the fear of land owners about the Act and said he appreciates that Mr. MacDonald is examining revenues in detail. Mr. O'Hearn said he was also appreciative of the Council's letter requesting full federal funding for land acquisition because the Highlands Conservation Act should receive full funding. Ms. Pasquarelli requested more information about the Tax Stabilization Board.

David Shope, Long Valley. Mr. Shope said he thinks it is appropriate for Mr. Klumpp to speak to the Council regarding proposed legislative changes. Regarding the presentation made by Mr. MacDonald

he asked if the gross sales figure illustrates what was the asking price of property vs. actual price received. He wants the affects to roll back taxes to be addressed because he feels he is at a distinct disadvantage being in the Preservation Area.

Jerry Kern, Pohatcong Township, owns 70 acres in the Preservation Area. He said he hopes the Council will reconsider doing away with the first public comment session because he cannot always stay for the entire meeting to speak at the end. He asked where is the funding to purchase lands will come from. Mr. Weingart added that the Council agrees there needs to be more funding for land acquisition and the TDR program is examining sources. Mr. Weingart reminded that there is a huge amount of work the Council needs to accomplish in the next couple months, and therefore the meetings will be considered work sessions.

Rich Longo, Boonton Township. Mr. Long owns 13 acres in the Preservation Area and attended the Council's last meeting. He said his grandchildren are the 10th generation of his wife's family to live on their property. He feels there was not sufficient scientific data utilized to write the legislation. He said taxes may go down in the Preservation Area because everyone there will protest and appeal their rates, and then taxes will go up in Planning Area.

Hank Klumpp, Tewksbury, Hunterdon County. Mr. Klumpp said he did not want to lose the first public comment session at upcoming meetings. He read a portion of a letter he received from a Weichert Realty office which stated that the Highlands Act has caused far greater consequences than ever anticipated. He asked that the Council advocate on his behalf to the Legislature. Mr. Weingart said that meetings would continue to provide opportunity for public input, however the meetings are the primary means for the Council to conduct its work together.

Doug Williams, Flanders. Mr. Flanders asked what part of the regulations pertains to searches of private property by DEP officials and thought the fines imposed are excessive. Mr. Weingart said that his concerns are noted and the Council can relay them, but it does not have decision making power as to DEP's regulations.

No further comments were received.

Mr. Alstede motioned to go into Executive Session to discuss personnel matters, Ms. Pasquarelli seconded, however Ms. Letts noted that she would not be able to stay and thus there would be no quorum.

ADJOURN:

Ms. Pasquarelli motioned to adjourn, Ms. Calabrese seconded, all were in favor, ADJOURNED at 6:55 p.m.

RESOLUTION 2006-09
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF SENDING ZONE AND RECEIVING ZONE CRITERIA

WHEREAS, Section 8 of the Highlands Water Protection and Planning Act (the “Highlands Act”) mandates that the Highlands Water Protection and Planning Council (the “Highlands Council”) adopt a Regional Master Plan by June of 2006; and

WHEREAS, Section 13.a of the Highlands Act requires the Highlands Council to establish a Transfer of Development Rights (“TDR”) program for the Highlands Region, based upon Section 11, the resource assessment, and Section 12, the smart growth component of the Regional Master Plan, that furthers the goals of the Regional Master Plan; and

WHEREAS, pursuant to Section 13.b of the Highlands Act, within 18 months after the date of enactment of the Highlands Act, the Highlands Council, in consultation with municipal, county and State entities, is to identify areas within the Preservation Area that are appropriate as TDR sending zones pursuant to P.L.2004, c. 2 (C.40:55D-137 et seq.); and

WHEREAS, to achieve the Highlands Act mandate that Preservation Area landowners affected by the application of the Highlands Act and its implementing regulations be justly compensated, the extent of Preservation Area properties that may serve as sending zones must be as broad as possible within the parameters established by the Highlands Act; and

WHEREAS, Highlands Council staff suggests that the use of narrative criteria to identify areas of the Preservation Area that are appropriate to serve as sending zones accomplishes this objective and satisfies the legislative mandate of Section 13.b of the Highlands Act; and

WHEREAS, pursuant to Section 13.c of the Highlands Act, within 18 months after the date of enactment of the Highlands Act, the Highlands Council, in consultation with municipal, county and State entities, is to identify areas within the Planning Area that are appropriate for voluntary receiving zones pursuant to P.L.2004, c. 2 (C.40:55D-137 et seq.); and

WHEREAS, Section 13.c of the Highlands Act, requires the Highlands Council to consider such information as may be gathered pursuant to Sections 11 and 12 of the Highlands Act as may be available at the time; and

WHEREAS, Section 13.d of the Highlands Act, requires the Highlands Council to “work with municipalities and the State Planning Commission to identify centers, designated by the State Planning Commission, as voluntary receiving zones for the transfer of development rights program; and

WHEREAS, the data and information that inform Section 11, the resource assessment, and Section 12, the smart growth component, are still in development; and

WHEREAS, to specify geographic boundaries of voluntary receiving zones without sufficient data and information, particularly information on the location of existing water supply and wastewater infrastructure and natural resource information, could detrimentally affect the development and implementation of the Regional Master Plan; and

WHEREAS, the Highlands Council staff suggests that the use of narrative criteria to identify areas of the Planning Area that are appropriate to serve as voluntary receiving zones satisfies the legislative mandate of Section 13.c of the Highlands Act without prejudicing development and implementation of the Regional Master Plan; and

WHEREAS, the Smart Growth and Economic Development Committee has reviewed and approved the following narrative criteria for identifying sending zones and voluntary receiving zones after taking public comment.

NOW THEREFORE, BE IT RESOLVED by the Highlands Council that it hereby adopts the following narrative criteria for both sending zones and voluntary receiving zones, which indicate those land characteristics or attributes that an area must have to be deemed appropriate as either a sending zone or voluntary receiving zone:

The narrative criteria listed below are intended to serve as a threshold for determining what lands in the Highlands Region are appropriate as TDR sending zones and voluntary TDR receiving zones as required by Section 13 of the Highlands Act. In essence, these narrative criteria serve as the lens through which each property in the Highlands Region will be viewed to determine its role, if any, in the Highlands Region TDR Program.

With respect to sending zones, the Highlands Council envisions a process whereby Preservation Area landowners will apply to the Council for a determination as to how many development rights or credits their respective properties are entitled. Specifically, the Highlands Council may utilize an individual property review process to assign TDR credits on a lot-by-lot basis that will be developed by the Council as part of the Regional Master Plan. It is important to note that all lands in the Preservation Area are eligible to participate in the TDR program provided they satisfy the sending zone criteria. Thus, any land types are eligible, including but not limited to agricultural lands, woodlands, environmentally sensitive lands or lands zoned for residential, commercial or industrial development.

With respect to voluntary receiving zones, specific identification of these zones will occur during the Regional Master Plan conformance process. A similar process will be utilized to identify voluntary receiving areas outside of the Highlands Region but within the seven Highlands counties.

Sending Zone Criteria:

In consultation with municipal, county and State entities, the Highlands Council may identify any land in the Preservation Area as an area appropriate as a TDR sending zone provided that the land could have been developed as of August 9, 2004, based upon municipal zoning and land use regulations then in effect, and State and federal environmental laws and regulations then in effect, but which development is now precluded or severely constrained by the restrictions imposed pursuant to the Highlands Act.

The Highlands Council may deem land within the Preservation Area inappropriate as a sending zone where that land is appropriate for redevelopment as 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, or such land otherwise qualifies for an exemption or waiver from strict compliance with the standards at N.J.A.C. 7:38.

The above criteria are preliminary and do not preclude the Highlands Council in the future from modifying these criteria or identifying other areas within the Highlands Region as TDR sending zones.

Voluntary Receiving Zone Criteria:

Any area in the Planning Area that is appropriate and suitable for development utilizing existing resource assessment information and exhibits one or more of the following characteristics may be appropriate as a voluntary TDR receiving zone provided that it has been approved by the Highlands Council in consultation with municipal, county and State entities:

- (1) Land with access to multi-modal transportation utilizing the existing transportation network;
- (2) Land that is proximate to existing areas of concentrated development patterns and existing population centers; or
- (3) Land that is underutilized or previously developed.

In addition, a voluntary TDR receiving zone must demonstrate access to available water supply and wastewater infrastructure with the capacity to support increased development, and the proposed zoning must be economically viable and be shown to be able to accommodate an increase in density above that allowed in municipal zoning in place at the time of adoption of a voluntary TDR ordinance. The Highlands Council will work with municipalities and the State Planning Commission to identify centers, designated by the State Planning Commission, as voluntary receiving zones for the transfer of development rights program.

The above criteria are preliminary and do not preclude the Highlands Council in the future from modifying these criteria or identifying other areas within the Highlands Region or within the seven Highlands counties as voluntary TDR receiving zones.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 23rd day of February, 2006.



John Weingart, Chairman

RESOLUTION 2006-10

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL AMENDED CONTRACT WITH VERTICES, LLC

WHEREAS, Section 8 of the Highlands Water Protection and Planning Act (the "Highlands Act") mandates that the Highlands Water Protection and Planning Council (the "Highlands Council") adopt a Regional Master Plan by June of 2006; and

WHEREAS, Section 6.g. of the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

WHEREAS, on December 15, 2005, the Highlands Council authorized the Executive Director to enter into a contract with VERTICES, LLC ("VERTICES"), not to exceed \$10,000, to perform data management services in support of the development of the Regional Master Plan; and

WHEREAS, VERTICES continues to perform all work listed under their existing scope of work relating to assisting in the development of the Regional Master Plan; and

WHEREAS, the Highlands Council wishes to amend the current contract with VERTICES to provide that VERTICES will expand its consulting services to provide additional technical assistance to develop an internet-based application for parcel identification for the Regional Master Plan; and

WHEREAS, VERTICES has prepared a scope of work to provide expanded consultation for \$20,400, thereby making a total contract amount of \$30,400, which scope of work and amount have been reviewed and recommended for approval by Highlands Council staff and subsequently approved by the Plan Development Committee and the Budget and Finance Committee; and

NOW THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or his designee, is hereby authorized to enter into an amended contract with VERTICES for an amount not to exceed \$20,400.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 23rd day of February, 2006.



John Weingart, Chairman

RESOLUTION 2006-11

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL AMENDED CONTRACT WITH HATCH MOTT MACDONALD

WHEREAS, Section 8 of the Highlands Water Protection and Planning Act (the "Highlands Act") mandates that the Highlands Water Protection and Planning Council (the "Highlands Council") adopt a Regional Master Plan by June of 2006; and

WHEREAS, Section 6.g. of the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

WHEREAS, on December 1, 2005, the Highlands Council authorized the Executive Director to enter into a contract with Hatch Mott MacDonald ("HMM"), not to exceed \$78,800, to assist in the development of a utility capacity analysis for the Highlands Region; and

WHEREAS, HMM continues to perform all work listed under their existing scope of work relating to assisting in the development of the Regional Master Plan; and

WHEREAS, the Highlands Council wishes to amend the current contract with HMM to provide that HMM will continue to assist in the development of a utility capacity analysis; and

WHEREAS, HMM has prepared a scope of work to provide continued consultation for \$60,000, thereby making a total contract amount of \$138,800, which scope of work and amount have been reviewed and recommended for approval by Highlands Council staff and subsequently approved by the Plan Development Committee and Budget and Finance Committee; and

NOW THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or his designee, is hereby authorized to enter into an amended contract with HMM for an amount not to exceed \$60,000.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 23rd day of February, 2006.



John Weingart, Chairman

RESOLUTION 2006-12

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL AMENDED CONTRACT WITH NATIONAL CENTER FOR NEIGHBORHOOD AND BROWNFIELDS REDEVELOPMENT, RUTGERS UNIVERSITY

WHEREAS, Section 8 of the Highlands Water Protection and Planning Act (the "Highlands Act") mandates that the Highlands Water Protection and Planning Council (the "Highlands Council") adopt a Regional Master Plan by June of 2006; and

WHEREAS, Section 6.g. of the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

WHEREAS, on December 1, 2005, the Highlands Council authorized the Executive Director to enter into a contract with National Center for Neighborhood and Brownfield Redevelopment ("NCNBR") at Rutgers University, not to exceed \$65,000, to conduct a build-out analysis of the Highlands Region; and

WHEREAS, NCNBR continues to perform all work listed under their existing scope of work relating to assisting in the development of a build-out analysis for the Regional Master Plan; and

WHEREAS, the Highlands Council wishes to amend the current contract with NCNBR to provide that NCNBR will expand its consulting services to provide additional technical and planning assistance relating to spatial data and other data sets being prepared for the Regional Master Plan; and

WHEREAS, NCNBR has prepared a scope of work to provide expanded consultation for \$14,100, thereby making a total contract amount of \$79,100, which scope of work and amount have been reviewed and recommended for approval by Highlands Council staff and subsequently approved by the Plan Development Committee and the Budget and Finance Committee; and

NOW THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or his designee, is hereby authorized to enter into an amended contract with NCNBR for an amount not to exceed \$14,100.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 23rd day of February, 2006.



John Weingart, Chairman

RESOLUTION 2006-13
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
CONTRACT WITH UNITED STATES ARMY CORPS OF ENGINEERS

WHEREAS, Section 8 of the Highlands Water Protection and Planning Act (the "Highlands Act") mandates that the Highlands Water Protection and Planning Council (the "Highlands Council") adopt a Regional Master Plan by June of 2006; and

WHEREAS, Section 6.g of the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

WHEREAS, the Highlands Council desires to enter into a contract with the United States Geological Survey, United States Army Corps of Engineers ("USACE"), a federal agency with significant expertise in conducting aerial flyovers to gather digital elevation data; and

WHEREAS, the purpose of the contract is to prepare an updated and accurate digital elevation model of the Highlands Region to identify areas of steep slopes, which model will be used to assist municipalities and counties during the Regional Master Plan conformance process, and for further development of the Regional Master Plan; and

WHEREAS, to conduct the digital elevation data gathering and analysis envisioned by the contract, USACE must conduct its aerial flyovers during leaf-off conditions; and

WHEREAS, USACE has prepared a scope of work to conduct aerial flyovers and analysis of digital elevation data for \$302,000, which scope of work and amount have been reviewed and recommended for approval by Highlands Council staff and subsequently approved by the Plan Development Committee and Budget and Finance Committee;

NOW THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or his designee, is hereby authorized to enter into a contract with USACE, for an amount not to exceed \$302,000.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 23rd day of February, 2006.



John Weingart, Chairman