

## **MINUTES**

### **NEW JERSEY HIGHLANDS COUNCIL MEETING OF NOVEMBER 3, 2005**

#### **PRESENT:**

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

The following are the minutes from the New Jersey Highlands Council meeting which was held at 100 North Road, Chester, New Jersey on November 3, 2005 at 4:00 p.m.

#### **CALL TO ORDER:**

The Chairman of the Council, Mr. John Weingart, called the 19th 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.

#### **APPROVAL OF MINUTES (October 20, 2005):**

Mr. Weingart asked if there were any comments to the minutes of October 20, 2005. Ms. Eileen Swan asked for clarification of was on page 10 regarding Mr. Tim Dillingham's Natural Resource Committee report regarding consistency of the rules pertaining to impervious cover. It was determined that Ms. Swan had not received the final version of the minutes, Mr. Dillingham advised that in the revised minutes the clarification she sought was provided, and read the revised portion aloud.

Ms. Mimi Letts made a motion to approve, Ms. Debbie Pasquarelli seconded, Ms. Lois Cuccinello abstained, all others were in favor, APPROVED.

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

Mr. Weingart reported that at the last Council meeting there was a lengthy Executive Session and that immediately following that session the meeting concluded. He asked if any members had reports, and since none did, he turned the meeting to Mr. Adam Zellner for the Executive Director's report.

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

Mr. Zellner advised that the Chester meeting room will have a new public address system in place for the next Council meeting on December 3<sup>rd</sup> which will help the public to hear more clearly what is being said.

Mr. Zellner noted that Ms. Erin Thomsen will be providing Council members with a detailed schedule noting times and events for the upcoming League of Municipalities in Atlantic City which begins on November 14<sup>th</sup>.

Mr. Zellner then gave special thanks to the Waldwick High School, for giving a creative and informative program on New Jersey's Highlands. He noted it was the product of a year-long senior class project, and that even though the school is not located within the Highlands, approximately 300 children and parents attended the program. The program included a movie, and the children of the school created an official Highlands calendar which will be provided to all the Council members. Mr. Zellner noted that some students from the school would be attending a Council meeting in the near future to present the calendar as well as other materials they created, to the members.

Mr. Zellner then thanked Mr. John Stokes, Executive Director of the Pinelands Commission, for attending the meeting, and also for lending much appreciated assistance over the past several months to the Highlands Council and its staff.

Mr. Weingart then advised that all documents which the Council would be discussing during the meeting were available to the public on the back table of the meeting room.

Mr. Weingart added that the information provided by Mr. Stokes and the Pinelands Commission has been very beneficial to the Council and its staff. He thanked and welcomed Mr. Stokes to the meeting, and then introduced him to the public.

#### **PRESENTATION (Pinelands Commission):**

Mr. Stokes thanked the Council for inviting him and gave a power point presentation on the Pinelands Commission. Mr. Stokes said that water supply is the number one priority for the Highlands Council, and that it is also number one on the Pinelands priority list as well. He noted that he has worked with a couple members of the Highlands Council as well as members of the staff, and has been happy to lend assistance.

The Pinelands area encompasses approximately 1.1 million acres, 927,000 acres are regulated by the Pinelands Commission. There are 53 municipalities, 7 counties, 277,000 residents, with a 17 trillion gallon aquifer and biosphere reserve. The Garden State Parkway serves as the boundary between the Pinelands area and the Pinelands reserve.

A physical characteristic of the Pinelands is that it is the largest underground reservoir and of the purest type in the country. It supplies water for most of southern New Jersey, and beyond state boundaries. The Pinelands area is recognized nationally as a great natural resource.

The Pinelands authority comes from both federal and state legislation. In 1978, the National Parks and Recreation Act, Section 502, designated the Pinelands National Reserve and recognized the state leadership role, providing for federal participation.

The New Jersey State legislation, the Pinelands Protection Act, was enacted nine months after the federal law in 1979. It created a 15 member Commission, an Advisory Council with all mayors to create preservation and protection areas with goals. The Act authorized a comprehensive management plan, and required DEP implementation in coastal areas. It also required governmental consistency and a Pinelands area authorized permit review system.

Ms. Betty Wilson is the Chair, 7 members are appointed by the Governor, 7 members, one for each county, are appointed by each county. The last member is appointed by the Secretary of the Interior.

The Executive Director of the Commission serves as CEO. Three operating offices of the Commission are: Land Use and Technology, Regulatory Programs, and Science. There are two support offices: Business Services, and Communications. There are 69 employees total including part-time and seasonal. The Commission is not subject to civil service and undertakes its own contracting.

As to finances, the PDC purchase program fund is \$30,000, the Pinelands Conservation Fund is \$409,200, the Cape May Acquisition fund is \$781,500, the Kirkwood-Cohansey project fund is \$1,517,320, and the operating fund is \$4,670,950.

This year there was established a \$13 million Pineland Conservation Fund which finances endowments.

As to revenues, state funding is \$3,104,000, dedicated funds are \$2,708,020, fees are \$600,000, and grants and miscellaneous are \$996,950.

Mr. Stokes noted that the Pinelands Commission has received sizable grants from the Geraldine Dodge Foundation and the William Penn Foundation in Pennsylvania.

Land acquisition is very important to the Pinelands and it has a community planning and design program to assist communities. The Pinelands Commission reports and records economical monitoring, environmental monitoring, and does ecological research.

Some regulatory components of the Pinelands plan are land use, development transfer, universal development standards, standards for resource-based uses, and municipal and county "conformance" oversight of permitting.

The conservation area is based on research that has been done and development is very limited. Residential development is not permitted. The Commission may have approved a couple dozen provisional uses over the last 25 years. In the center of the protection area are New Jersey's cranberry bogs which are extremely important to the economy of the cranberry industry.

There are small areas of historic traditional settlements, villages and hamlets that have been around for over a hundred years. There are also larger historic communities with much more infrastructure with central wastewater services.

The development credit program goal is to protect the environmental critical core area as well as protect the largest concentrations of farmlands. It will also accommodate limited development where appropriate. There is a density transfer program within municipalities which doesn't operate in the same manner as the development credit program since there is no overlap. It deals with undersized lots that cannot meet zoning, which allows property owners to build on smaller lots through administrative mechanisms, including the mother lot which is joined with the appurtenant, non-contiguous lots.

Municipalities are required to come to the Pinelands Commission for approval of any changes to local land use ordinances, master plans and amendments. Municipal adjustments, site plans, and subdivisions are possible, and require Pinelands approval.

The Pinelands has been involved in the community planning process and has consistent municipal and county plans and ordinances. The Pinelands development credit program has protected 42,000 acres of land. There is a system in place to monitor transactions. Half of the entire Pinelands region has been protected and one acquisition goal is to get contiguous use of lands in areas where the watershed characteristics are natural.

The Pinelands community economy is out-performing surrounding areas. It has lower unemployment, a high rate of growth in retail and wages are growing faster than surrounding areas. Real estate taxes are much lower than surrounding areas, and that gap has increased over time. Service costs are lower, therefore a lower tax rate is necessary. The regulatory system has not destroyed property values. Historically property values were far lower than other areas, such as a couple hundred an acre, but Pinelands rate of growth in value has outpaced other surrounding areas.

Mr. Stokes said that his own observations are that planning evolves, and difficult decisions often become popular later. Regulatory programs need to be coupled with incentives and regulations are not a substitute for permanent land protection. He noted that the Council is only at the beginning, and that it will not have all the information and will have to continue to work as time goes forward. He added that the search for perfection can be the enemy of progress because no plan will be perfect.

Mr. Stokes said that the wetlands protection 300 foot buffer was extremely unpopular when proposed, but became popular because of the sensitive ecological attributes of the areas being protected. The regulatory program should be coupled with incentives, and the original Pinelands legislation didn't provide enough incentives. Mr. Stokes said that the Pinelands Commission was created to say "no, you can't do this." The Commission recommended a tax stabilization program which was passed by Legislature to assist municipalities which were adversely affected so they could stabilize. The Pinelands Commission did not initially have a TDR bank, so it took time after the plan was adopted to be put in place.

Mr. Stokes said the younger generation has learned that the environment needs protecting, and doing so is second nature to them. His children taught his wife to recycle. He said that if the Highlands master plan is not implemented and enforced, it will be for naught. The Pinelands partners with its municipalities, and has built good relationships with them. Mr. Stokes said that litigation is only initiated through the Attorney General's office on rare occasion. He thanked the Council and Mr. Zellner, and asked if there were any questions.

Mr. Weingart thanked Mr. Stokes for his presentation and asked if he could give the Council more details on the Pinelands TDR credits process because it is one of the most important Highlands issues. He asked Mr. Stokes for example, if a piece of property could not be developed, what would be done to get credits.

Mr. Stokes said the Pinelands believes there is no property in the Pinelands with no reasonable economic use. He said forestry and recreational uses are allowed in the core, and that there is a formula in the plan based on the characteristics of a property, as well as an initial assessment of relative value.

Mr. Stokes said that the Pinelands TDR program was possibly more complicated and precise than necessary. As an example, Mr. Stokes said if you own a piece of forested land in the middle of the preservation core, the formula to allocate credit would be 1 development right for every 10 acres; if the property is active farmland, it received 1 development right for every 5 acres; if the property is swamp land, 1 development right for roughly every 50 acres. Mr. Stokes said that the Pinelands allocated rights and the final acreage was based on how many rights there was a home for, because if there wasn't anywhere for the credits to be utilized, they would be worthless.

Ms. Cuccinello thanked Mr. Stokes for his presentation and referred to his comment about the regulatory program fee being coupled with incentives, and asked for more details on how it worked and how receptive municipalities were to it.

Mr. Stokes said that the suggestion is to provide the financial wherewithal to help municipalities, but the Pinelands didn't do that so it had to go back to the Legislature. He stated that it would have been better at the outset if towns knew they had money to deal with all the things they would have to do. Providing help with adversely affected ratable bases, and offering incentives made municipalities much more comfortable. Allowing development where infrastructure supports it is more desirable than saying "this is where development has to happen." If you can provide some incentives to areas that can accept the development you will have success.

Mr. Schrier thanked Mr. Stokes for his mention of an "advisory" planning area, and asked about the Kirkwood-Cohansey project. He asked how the Pinelands makes adjustments and determinations in the regional plan as to how much water can be withdrawn, without knowing how much water can be withdrawn and still remain protected. Mr. Stokes replied that it is difficult to make determinations of that nature because all of the desired information you believe you need to make those decisions may not be available. The Pinelands based its best estimates on the information which was available in 1980. The Pinelands has had to continue to develop very detailed data with headwater information and extensive geological studies.

Mr. Schrier asked Mr. Stokes if he could give an example as to municipal adjustments that the Pinelands made. Mr. Stokes noted that the colors on the Pinelands map represent changes, boundaries of one type of zoning to another, as well as sub-basins and watersheds, which allow specific zoning policies which municipalities are able to adjust. The colors also correspond to physical features, which note if they have certain element objectives, such as areas that will have a higher level of development appropriate.

Ms. Swan thanked Mr. Stokes for his presentation, and said it was good to hear from someone who has already gone through the process of creating a water protection plan. She noted the Council is fortunate to have TDR and tax stabilization already in place. Ms. Swan said that she agreed with his point that land acquisition is the priority, and that regulations are not a substitute. She noted that this is something that the Council is very interested in working on.

Mr. Alstede thanked Mr. Stokes and said that the length of time it took the Pinelands to get the development credit bank in place created such frustration for landowners and farmers who felt they had been stripped of their equity and not given any alternatives, he asked why after so many years there is only \$30,000 budgeted in the bank for Agriculture.

Mr. Stokes responded that the Pinelands has not been asked to purchase a development right for a property for many years. He said that property owners fair much better on their own selling privately. He noted that all development rights are purchased privately initially and therefore the Pinelands does not need to allocate as

much money to purchase development rights in its PDC bank. Mr. Stokes said that the Pinelands does have a reserve it can call upon to purchase development rights if necessary.

Mr. Stokes noted that it is correct to create confidence in the TDR program, and that in the mid-90s the legislation established a value of \$2,500 a right and then authorized the bank to increase that amount. Mr. Stokes said the bank can offer 80% of what the private market value is for example, if the analyzed market value today is \$37,000, the bank could offer 80% of that amount.

Mr. Stokes noted that the regional plan has a home for the rights in communities with growth areas. The communities had to complete both local planning and zoning in those areas.

Mr. Alstede asked why someone would want to take a 20% hit on land equity value, since right now the basis is set at a maximum of 80% of market value. Mr. Stokes noted that the Farmland Preservation Program is not as active in the Pinelands and those farmers who have qualified for farmland preservation, have opted to sell development rights on the market with the transaction taking place within weeks, in contrast to selling through farmland preservation which could take up to two years or longer.

Ms. Carluccio thanked Mr. Stokes for his presentation and said that she found it interesting that the economy is outperforming in the Pinelands region. She asked about the use of alternative wastewater methods and asked if Pinelands has adopted design standards for individual septic systems. Mr. Stokes said that the Pinelands has a groundwater quality standard and a dilution model it utilizes.

Mr. Stokes advised that the Pinelands has a pilot program with 5 specific wastewater technologies for individual septic systems. As a result of the Pinelands nationwide research of dozens of systems, it chose the best programs and identified them. The vendors of the programs have to submit detailed plans to the Commission for certification. Once certified by the Commission, the technologies can be marketed. The Commission requires certified vendors to provide five year maintenance operation guarantees of sophisticated systems, and that the systems can be costly. Remote sensors are used so that if something goes wrong, the vendor is immediately dialed. Samples are also taken and monitored by the Commission. Ms. Carluccio asked if the reports of these systems were available publicly. Mr. Stokes replied that some of the monitoring results are probably available on the website, and that he would be happy to give Mr. Adam further information on obtaining the reports.

Ms. Letts noted that she also had many questions for Mr. Stokes, and asked if he could meet again with the Council to answer questions. Ms. Tracy Carluccio suggested a work session could be very helpful to the Council and Mr. Stokes said that would be possible.

Mr. Weingart supported those comments and suggested that the Council would find avenues to continue the dialogue with the Pinelands Commission. He then opened a public comment period.

#### **PUBLIC COMMENT PERIOD:**

Nancy Palladino. Ms. Palladino directed questions to Mr. Stokes regarding the tax stabilization program. She wanted to know how it was made whole and whether it used a federal sliding scale, and also about its effects on property taxes year after year. Mr. Weingart noted that public comment was not intended to be a question and answer session, however, Mr. Stokes offered his business card to her. She noted that she was curious about the composition of the Council in comparison to the Pinelands Commission. She noted the Council members are completely under the control of the Governor, and that he can veto them.



Hank Klump, Tewksbury. Mr. Klump is a farmer who owns 150 acres in the preservation area. He asked how many people on the Council owned sizeable properties in the preservation area. Mr. Klump said his family has been farming since 1952 and that he hopes for some sort of compromise. His land was previously appraised at the actual market rate and taxed accordingly. Mr. Klump said when his son inherits the same property which now has less equity, how could it still be taxed at the same rate as before the Act. Mr. Klump believes there is no scientific reason why his property should be in the preservation area because the property on the other side of the road is not. Mr. Klump said that farmers need help in protecting their investments and that it is unfair to have the farming business and the investments made by farmers taken by state government. He asked for the science on how the boundaries were drawn and left his name and telephone number as well as his comments in writing.

Deborah Post, Chester. Ms. Post asked whether the Council has done any work on property devaluation since the last Council meeting. She stated she is interested in the science of her property, Block 33, Lot 4 in Chester. Ms. Post said that in the original draft of the Highlands legislation, her property was not in the preservation area. She quoted a Star Ledger article that stated the science got political. Ms. Post believes that her property should not be included in the preservation area because it has no wetlands features, nor is it exceptionally important for water cleanliness. She asked the Council to supply her with the specific detailed hydro-geological supporting data which justifies the public use taking of her property within 10 days. Ms. Post provided written copies of her comments to the Council.

Susan Buck, Oxford. Ms. Buck stated that the government owns more than 50% of the country. Ms. Buck says that the Preble jumping mouse is on the endangered species list because skeletal remains were found in an area that was to be developed. She said that she believes people go homeless but that a mouse is protected by overzealous conservationists. Ms. Buck said that habitat had little to do with the return of the Bald Eagle and Peregrine Falcon. She stated that since they don't have to ingest DDT anymore they have come back, and will nest on manmade objects such as utility towers. Ms. Buck provided her comments in writing to the Council.

Mr. Glen Vetrano had to excuse himself to attend another meeting.

## **COMMITTEE REPORTS:**

Ms. Debbie Pasquarelli then gave the **Budget and Finance Committee** report. She noted that the committee met to revise the current contract with Civil Solutions Inc. due to obvious needs for additional information. Ms. Pasquarelli noted that the committee reviewed the recommendation given by staff to increase the total contract with Civil Solutions Inc. to an amount not to exceed \$118,635.00. She noted that the committee voted to recommend to the full Council a vote on the resolution included in their meeting packets which would be considered next.

## **CONSIDERATION OF RESOLUTION AMENDING CIVIL SOLUTIONS CONTRACT (voting matter):**

Mr. Weingart then asked all members to look to the resolution in their meeting packets which memorialized the changes to the Civil Solutions Inc. contract.

Ms. Pasquarelli made a motion to adopt; Mr. Mikael Salovaara noted that the action taken by the resolution was ratification, and asked that language be revised on page 2, under the Now Therefore clause, paragraph (1) to read: "ratifies its authorization" rather than "memorializes its authorization."

Mr. Salovaara also asked that in paragraph (2) of the Now Therefore clause, to insert the word "further" before the words "revised contract."

Ms. Pasquarelli asked if legal counsel had any objection to the revisions, and none were given. Ms. Pasquarelli concurred with the suggested changes. Mr. Salovaara seconded the motion to approve.

Ms. Pasquarelli inquired whether the Council has received any additional information, and Mr. Steve Balzano advised that staff has received digitized tax maps. Ms. Pasquarelli asked whether staff has received mapping information from Sparta and whether it was suitable for use. Mr. Balzano replied it was still a possibility that it would be received, and that Civil Solutions Inc. is aware. Mr. Salovaara asked if a copy of the signed October 24, 2005 contract with Civil Solutions had been sent to him, and Mr. Zellner replied it had been mailed. Ms. Swan noted she received a copy on November 1st.

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

Mr. Weingart then reported on the **Personnel Committee** which met earlier that day. He advised that the Council currently has 25 staff and will soon be moving to fill the other three positions that were previously authorized for a total of 28. He noted that Council spending would continue to be within the budget it had previously adopted for personnel, Mr. Weingart advised that, as a result, a resolution was not necessary, but that he was hereby providing the full Council notice of vacancies.

Mr. Weingart then asked Mr. Zellner to give an outline of the next resolution for the Council's consideration.

#### **CONSIDERATION OF RESOLUTION REGARDING GRANTS TO MUNICIPALITIES AND COUNTIES (voting matter):**

Mr. Zellner advised that the current resolution was a continuation of the work being completed to provide grants to municipalities and counties for Fair Share Planning COAH third round obligations. The resolution indicates grants be provided up to \$7,500 to: Franklin Borough, Parsippany-Troy Hills Township, and Peapack-Gladstone Borough.

Mr. Zellner reported that Califon Borough was being added as an MP3, and that the resolution indicates grant funding up to \$15,000 be provided.

Mr. Weingart asked if representatives of the municipalities were present and none were. He asked if there was a motion to approve, Ms. Swan so moved, Ms. Cuccinello seconded. Mr. Schrier asked if Califon had certifications from COAH, and Mr. Balzano replied "yes", but that it had outstanding second round obligations.

On the prior motion made and seconded, Ms. Mimi Letts abstained, all others were in favor, APPROVED.

Chairman Weingart then opened a public comment period.

#### **PUBLIC COMMENT PERIOD:**

David Shope, Long Valley. Mr. Shope said that the Council didn't afford public comment before voting on the resolutions. He said that agricultural viability is mentioned in the task force report as well as smart growth documentation, and asked how this will be achieved. Mr. Shope said that New Jersey receives 60 cents on every dollar that it sends to Washington. He also said that planning and preservation areas have many overgrown fields and that barns are falling down in disrepair. Mr. Shope noted these areas were once capital assets and believes that now they are useless. He said that the Rutgers budget for farming programs is being cut. Mr. Shope said the water use tax now generates \$250 million per year and that the benefit of that money is



not realized by property owners. He asked the Council to review a report he brought to the meeting regarding a tax which is part of the land valuation process in Virginia.

Andy Drysdale, Chester Township. Mr. Drysdale is a land surveyor and has attended prior Council meetings. He stated he has talked with other property owners losing value on their land. Mr. Drysdale said they should be compensated 100% for lost value. He stated that farming is hard work and that the key motivation has been the increase in property value. Mr. Drysdale said he believes extremes and flaws exist in the Highlands Act and in the rules of the DEP. He said that more funding should have been provided for in the law and that no provision was made to give credit against the 3% maximum impervious cover limit. He stated that he has lived on the side of a hill since the 1930s and that in cold weather the ground freezes solid becoming impervious cover. When heavy snow then melts and runs down the hill, it often causes flooding and what results is a big loss of groundwater recharge. Mr. Drysdale also said that he believes the 25 acre requirement for a septic system is extreme. He provided written copies of his comments to the Council.

Mr. Weingart asked if anyone from the public wished to comment on the resolutions and none did. He then asked if there was a motion for the Council to go into a short Executive Session. Ms. Swan so motioned, Mr. Schrier seconded, all were in favor, APPROVED.

Mr. Weingart advised that the Council's next meeting would be on December 1<sup>st</sup> at 4:00 p.m. at the Chester office.

#### **ADJOURN:**

Mr. Schrier motioned to adjourn, Ms. Letts seconded, all were in favor, and the meeting ADJOURNED at 7:30 p.m.