

**New Jersey Highlands Council  
Transfer of Development Rights  
Technical Advisory Committee  
Meeting Summary  
20 July 2005**

**Summary:**

The opening session of the Transfer of Development Rights (TDR) Technical Advisory Committee (TAC) was held on July 20, 2005, in the office of the New Jersey Highlands Council in Chester, New Jersey. Notice of the meeting was provided to the public on the Highlands Council's web site. Adam Zellner, Executive Director of the Highlands Council, welcomed the members of the Technical Advisory Committee and thanked them for their willingness to offer their expertise to the Council in preparation of the Regional Master Plan. The Council staff representatives were Steve Balzano, Tom Borden, Chuck Gallagher, and Maryjude Haddock-Weiler. Chuck Gallagher served as moderator and point of contact for the Committee. Technical advisor participants included Michael Andalaft, Mike Bolan, David Bossart, Tim Brill, Mike Catania, Jay Cronce, Joy Farber, Peter Furey, Robert Goldsmith, Jay Grant, Helen Heinrich, Dennis Kirwan, Courtenay Mercer, Denis O'Rourke, Stanley Omland, Jason Patrick, Charles Sarlo, Robert Shinn, Andrew Silverstein, Matt Sprung, Jim Tripp, and Ed Wengryn.

- Steve Balzano began the meeting by outlining its focus, which was to brainstorm about the principal issues associated with establishing a TDR program in the Highlands. After summarizing and circulating the issues brought forward, the Committee will offer comments and reconvene to discuss them some time in the fall.
- It was mentioned that the Highlands Act requires a viable TDR program to be available before the Regional Master Plan is complete. A successful TDR mechanism is considered a vital element in the forthcoming Regional Master Plan for achieving equity while concomitantly preserving the Highlands natural resources. The biggest obstacle envisioned is the establishment of voluntary receiving areas for preservation zone units. Overcoming this obstacle will require making redevelopment – density increases and more efficient use of formerly developed sites, in particular – attractive to local municipalities.
- Chuck Gallagher suggested that the Committee look to innovate as well as draw from former TDR models in constructing a program specific to the Highlands region. He then opened the floor for comment.

The first issue addressed was a procedure to locate and designate receiving areas:

- Jim Tripp suggested that the Council develop criteria for identifying desirable receiving areas. It was later suggested that these criteria not just be established but employed with specific recommendations for receiving communities. Later in the meeting it was suggested that the voluntary receiving areas should be identified first, and then a TDR infrastructure developed with them in mind.
- Many different types of receiving areas exist, and the economic values of these diverse communities should be considered while establishing the above criteria. Different categories of receiving areas might therefore be appropriate.
- The existing zoning in the planning area (or other receiving areas) should be acknowledged. High base densities have been shown to be an obstacle for TDR because they create disincentives to accommodate additional units. Appropriate zoning may be a tool for identifying willing, desirable receiving areas.
- The criteria should also incorporate an analysis of factors that represent positive growth opportunities, such as areas with current sewer and water service, proximity to commercial growth areas, available brownfields and redevelopment sites, and existing capacity.
- Michael Catania asserted that the Committee and Highlands Council must first “define the nature of the [TDR] beast”, and that it must exist in a different setting than previous programs like the Pinelands Commission, requiring it to adopt some potentially unique aspects in order to be successful.

The next issue addressed was how to make receiving development more attractive to municipalities:

- Bob Goldsmith pointed out that very high density development (up to 100 units per acre) can be beneficial to towns by attracting low-impact households. Adam Zellner, Executive Director of the Highlands Council, pointed out that the cost of building vertically (from stick to steel) might lessen the extent to which this option is viable.
- Stanley Omland suggested that redevelopment schemes with features like adult communities (low-impact) might serve as compensation and incentive for planning area towns to become more willingly involved. “The economic equation” has to somehow balance out.
- Outside of the Highlands, accepting receiving areas could be dovetailed with redevelopment laws.
- Numerous ideas about possible incentives that could be provided were shared:

1. Matt Sprung discussed both TED's (transfers of educational dollars) and TOD's (transfers of opportunity dollars) as cost-sharing mechanisms that would help to offset the additional financial burden taken on by receiving communities that accommodate above-density development.
  2. Other revenue sharing measures may be taken to equalize the sewer and infrastructure costs incurred by receiving communities. Investments in new sewer capacity, for example, can be provided and encouraged.
  3. Impact fees can be paid over the long-term and not just upfront in order to more adequately compensate the continuous expenditures that receiving communities pay due to the expanded infrastructure systems they must provide.
  4. Smart Growth approval could be fast-tracked for municipalities that accept receiving zone designation – a clearinghouse for smart growth.
  5. Other available funding sources for municipal compensation should be researched and identified.
- It was also agreed that an unprecedented opportunity to educate communities about local development and other land use issues was at hand, and an emphasis should be placed on teaching them about how to wisely and sustainably use their land.
  - Pursuant to the last point, a readable, simple explanation of the TDR program should be made available to municipal officials and local residents to increase familiarity with it. The program itself should be as simple as possible to best achieve this end.

A third issue considered was how to achieve equity through this process by compensating landowners whose properties have been impacted.

- TDR is a tool for exchanging economic value between areas. Determining the economic value of foregone development and other rights must be accomplished.
- Mike Bolan identified three values that should be considered in such a process:
  1. Value of these rights to the landowner
  2. Value to the user (developer)
  3. Value lost versus the value added

- A water fee on those that utilize Highlands resources could be levied that would supplement a TDR program.

A fourth issue identified was how to sustain the viability of a TDR program:

- Bob Shinn said that an innovative way of marketing development credits should be researched and developed.
- A formula for producing the value of development credits must be accomplished.
- Developers' participation in the TDR program will provide demand for the credits, and is therefore essential for its success.
- Courtenay Mercer pointed out that units constructed in (or transferred from) urban versus rural settings have substantially different values. Some mechanism of addressing this difference should be incorporated into an equitable TDR program.