

MINUTES

**NEW JERSEY HIGHLANDS COUNCIL
MEETING OF AUGUST 4, 2005**

PRESENT:

DEBORAH PASQUARELLI) COUNCIL MEMBERS
MIKAEL SALOVAARA)
EILEEN SWAN)

**PARTICIPATING VIA
TELECONFERENCE:**

JOHN WEINGART) CHAIRMAN

KURT ALSTED)
LOIS CUCCINELLO)
JANICE KOVACH)
MIMI LETTS)
JACK SCHRIER)
BEN SPINELLI)
GLEN VETRANO)
SCOTT WHITENACK)

ABSENT:

TRACY CARLUCCIO
TIM DILLINGHAM

The following are the minutes from the New Jersey Highlands Council meeting which was held at 100 North Road, Chester, New Jersey on August 4, 2005 at 10:00 a.m.

CALL TO ORDER:

The Chairman of the Council, Mr. John Weingart, called the fourteenth meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:10 a.m.

OPEN PUBLIC MEETINGS ACT:

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

ROLL CALL:

Chairman Weingart took roll. Present in the Chester office were Mr. Mikael Salovaara and Ms. Eileen Swan. Participating by telephone were Chairman John Weingart, Mr. Kurt Alstede, Ms. Lois Cuccinello, Ms. Janice Kovach, Ms. Mimi Letts, Mr. Ben Spinelli. A quorum of eight Council members was reached. Members Jack Schrier, Glen Vetrano and Scott Whitenack joined after the rollcall.

COUNCIL MINUTES (JUNE 30, 2005 meeting):

Chairman Weingart asked if there was a motion to approve the minutes of June 30, 2005. Mr. Mikael Salovaara noted that only six of the eight members present had also attended the June 30th meeting and, after discussion Mr. Weingart suggested that the approval of the minutes be tabled until more members joined in the meeting via telephone conference. Later in the meeting, Ms. Lois Cuccinello made a motion to approve the minutes, Ms. Janice Kovach seconded and the motion carried with Ms. Swan and Ms. Letts abstaining.

CHAIRMAN'S REPORT:

Chairman Weingart advised that the agenda did not include an Executive Director's report, however he asked that Mr. Adam Zellner summarize budget information in terms of available funding for the next year.

Mr. Zellner noted that updated budget information had been included in the members' meeting packets and that the information was broken down into three parts.

Mr. Scott Whitenack then joined the meeting via conference call.

Mr. Zellner noted that the Highlands operating budget was approved by the Budget and Finance Committee at \$2 million for internal operations.

Mr. Zellner next advised that the second part of the budget is funding for development of the Highlands Regional Master Plan. He noted that the Budget and Finance Committee approved this portion of the budget at \$1.75 million, of which \$1.5 million has already been transferred to the Highlands account as of Monday, August 1, 2005.

Mr. Zellner then reported that the third portion of the budget was designated for grants. He advised that through the realty transfer tax, the Highlands Council receives an annual appropriation grant of \$12 million. That \$12 million appropriation grant is broken up into a variety of pots, some of which are dedicated to other places such as the Pinelands. Through that appropriation, Mr. Zellner advised that two sources of funding are currently available: the FY 2005 realty transfer funds that were put aside, as well as the FY 2006 realty transfer tax funds which were approved a couple weeks ago. Mr. Zellner said that

the amount of planning grant funding now available is \$8,782,352.00 for local and county planning grants for the Regional Master Plan.

Mr. Zellner noted that the Council would be addressing proposals today that amount to approximately \$2.2 million leaving a minimum balance of about \$6.582 million for additional planning grants for municipalities and counties. It is anticipated that an additional \$4.4 million will be obtained next year that will bring the amount to \$10,982,000. Mr. Zellner said the recommendation is that the funding for next year be used for implementation of the plan for municipalities and counties. The Highlands staff has completed a profile of what it could cost for all 88 municipalities to opt in, and it is estimated that this amount would be sufficient based on the \$4.4 million annual planning grant funding.

Mr. Zellner thanked the Council as well as Senator Smith for doing such great work on a tough budget this year, and that he looks forward to working with all partners and giving as much assistance as possible as they come into compliance with the plan in the future.

Ms. Debbie Pasquarelli then arrived at the meeting, and echoed Mr. Zellner's thanks to the staff for their work on the budget.

Mr. Weingart also thanked the staff, and Mr. Zellner especially, for all their hard work.

Mr. Zellner noted that on the schedule for the following week is the one year anniversary of the Highlands Act on August 10th, and a press advisory will take place at 1:00 p.m. in Clinton at the dam. Also on the schedule is a Council meeting on August 18th at 10:00 a.m. in the Chester office. Mr. Zellner added that August 19th is Legislative Day, which will be held from 10:00 a.m. to 3:00 p.m. also at the Chester office and that an air conditioned bus will be provided.

Mr. Weingart advised that there were presently 7 members on via telephone conference, and that Ms. Debbie Pasquarelli, who was present at the Chester office, should open the public comment period.

PUBLIC COMMENT PERIOD:

Ms. Pasquarelli noted that the audience was primarily staff and press. She then asked if anyone wished to speak at that time, and since no one did, she turned the meeting to the next agenda item.

CONSIDERATION OF RESOLUTION REGARDING AGREEMENT WITH THE UNITED STATES GEOLOGICAL SURVEY (voting matter):

Chairman Weingart asked Mr. Steve Balzano to give an overview of the four outsourcing contracts which were up for consideration, and to give opportunity for discussion of each prior to a vote.

Mr. Balzano noted that each of the four contracts had first been reviewed by both the Plan Development Committee and the Budget and Finance Committee, and all were approved for vote as these are all for critical elements for development and production of the plan on time.

As to the first contract with the **United States Geological Survey**, Mr. Balzano advised that this contract would assist in preparation of a water resource analysis. The primary goal is to solicit their technical expertise for a capacity analysis for safe and sustainable yield for ground water and surface water supply. The USGS is very familiar with the Highlands region and has great expertise gained from the previous 2002 Forest Survey Study. He noted that the knowledge and data which USGS will provide will be very helpful in that the Council won't have to recreate the wheel so to speak. The contract is for the amount of \$398,868.00.

Mr. Weingart asked if there were questions. Ms. Letts asked if the staff had completed a list of what data was needed and who would be providing which services, to see what is being completed by whom. Ms. Swan noted an outline was in the packet which dealt with that information, including a description and breakdown. Ms. Pasquarelli said she thought Ms. Letts was asking for something more specific.

Mr. Zellner advised that staff initially outlined a list of necessary items and then matched those up to the contracts being voted on to ensure each of the pieces of what was needed were covered by all of the contracts.

Mr. Salovaara asked if these contracts were driven by hourly costs and wanted clarification on how the total amounts were arrived at. He further asked that since the information is being asked for on an expedited basis, whether the costs were higher.

Mr. Balzano noted that on the contract with Civil Solutions there is an extra fee for obtaining the information within 60 days as opposed to six months delivery, otherwise the totals for the other contracts are based on technical scope and no additional charge is included.

Mr. Salovaara asked whether these firms were already compiling this data anyway. Mr. Balzano replied they were not, and that in all cases this work is being completed independently for the Council. The Civil Solutions contract is for 6 towns. He noted that Passaic and Bergen Counties have hired Civil Solutions as well. The Highlands contract with them will fill in critical data gaps and is an update to work they did previously. The update is dedicated specifically to the Regional Master Plan and is not work they would normally do.

Mr. Salovaara asked what happens if they do not provide the work on time. Mr. Balzano stated that the contract terms would allow for termination if they don't meet deadlines. He further advised that the Council is partnering with the DEP to collaborate as well since data that DEP has is also necessary for fulfilling the contract. Mr. Salovaara then asked what happens if they deliver late. Mr. Balzano noted that they would only be paid

up to the point that they are timely. Mr. Zellner noted that the staff will be monitoring as it goes forward to ensure that deadlines are met.

Mr. Weingart said he shares in the concerns over timing and noted that the deadlines are crucial. He noted that it would be important to report at public meetings whether deadlines are missed due to failures of others for not being able to keep pace.

Mr. Balzano advised that timing has been made an issue up front, and that the managers on the Highlands staff have made all parties aware that they need to deliver on time. Staff has provided schedules in each of the proposals which are consistent with the timing requirements. Mr. Balzano further noted that staff will monitor and take any necessary corrective actions as the schedule moves forward to avoid falling behind. Mr. Zellner noted that each contract will have a contract manager from the Highlands staff.

Ms. Swan pointed out that there are critical milestones in the packets and that the Council should be made aware if a critical deadline is missed in any of the contracts.

Mr. Weyl asked if the staff had worked with Treasury and analyzed competitive bids since professional contracts do not require low bids since time and quality are essential.

Mr. Zellner advised that staff is working with Treasury regarding these contracts, as well as the DEP and the Attorney General's Office regarding procedure. He stated Mr. Tom Borden has been monitoring and reviewing carefully all aspects of the contracts negotiations.

Mr. Weingart asked if there was a motion to approve, Ms. Swan so moved, Ms. Pasquarelli seconded, no one from the public wished to comment, all were in favor, APPROVED.

CONSIDERATION OF RESOLUTION REGARDING AGREEMENT WITH THE WALTON CENTER FOR REMOTE SENSING & SPATIAL ANALYSIS AT RUTGERS UNIVERSITY (voting matter):

Mr. Balzano advised that the next contract for consideration was the contract with the **Walton Center for Remote Sensing & Spatial Analysis at Rutgers University**. The contract is similar to the USGS contract. Walton Center is a state entity that completed previous work on the 2002 Forest Study. The work requested under this contract is updating that study and adding information necessary for production of the Regional Master Plan in June 2006. The contract is for \$176,000 and is recommended for approval through the review of both Committees.

Mr. Balzano stated that the contract will include multiple technical data analysis issues such as land use, land cover, stream corridor analysis, endangered and threatened species evaluations, and forest analyses. These items were included in previous cost estimates as individual items, and are now being combined into one contract amount which relates to Ms. Letts' earlier question about listing specific items necessary and their costs.

Mr. Balzano noted that staff will oversee the schedule and delivery. There will be collaboration with the DEP since many of the data sets originate with the DEP and they have agreed to work according to our time schedule.

Mr. Di Pirro noted that the DEP has been very cooperative and has made a commitment to working with the Council to meet all timing deadlines. Ms. Swan pointed out that the onus is on the Council to perform. Mr. Di Pirro added that staff will keep the Council informed as to milestones. He noted that the DEP's Assistant Commissioner of Land Use, Ms. Lisa Jackson, as well as the Assistant Commissioner of Policy, Planning and Science, Ms. Jeanne Herb, have both been in constant direct communication with the Highlands staff and are meeting with staff diligently on all aspects.

Mr. Weingart asked if there was a motion to approve, Ms. Letts so moved, Ms. Cuccinello seconded, no one from the public wished to comment, all were in favor, APPROVED.

CONSIDERATION OF RESOLUTION REGARDING AGREEMENT WITH APPLIED GIS, INC. (voting matter):

Mr. Balzano advised that the third resolution for consideration is the contract with **Applied GIS, Inc.** to provide both licensure agreements and professional services for the development and implementation of an integrated data management system which is necessary to meet operational needs, and also to assist in processing information needed for development and implementation of the Regional Master Plan.

Mr. Balzano noted that Highlands staff reviewed programs in use by both the Meadowlands Commission and the Pinelands Commission. It was concluded after review that the Applied GIS program's operational costs were substantially lower for both start up and yearly operative maintenance than the program which the Meadowlands uses.

Mr. Balzano advised that Applied GIS currently holds a statewide contract for GIS services and data management services and thus have completed the selection process and are authorized to provide services to state agencies.

The contract is for the amount of \$128,000. This amount includes \$50,000 for a one-time lifetime license agreement to purchase software for unlimited use, and \$78,000 for professional services and direct costs for adoption of that system to meet the Highlands development needs.

Mr. Weingart asked Mr. Weyl if that information addressed his earlier question and he replied that it did.

Mr. Salovaara asked whether the \$50,000 amount has already been paid by the State for the licensure. Mr. Balzano replied that it had been reviewed and it was found that the

Pinelands spent approximately \$250,000 working with Applied GIS to develop their data management system under a shared license agreement which allows license ownership to the Pinelands for their own use in perpetuity. As part of that agreement, Applied GIS put what Pinelands estimates as much as \$1 million for professional services in development of the software for marketing to other users. Mr. Balzano said that rather than pay an annual license renewal fee, it is recommended that the Council pay a one-time license agreement because the software will be customized for the Highlands specific needs. This would be more desirable since the Highlands will not be subject to annual renewal fees.

Mr. Salovaara asked what professional services and other direct costs could be estimated for future years. Mr. Balzano stated that managing the existing operating system would cost approximately \$8,900 for renewable and recurring costs as compared to \$18,000 for the other system. Mr. Balzano advised that the hope is that the system will be web-based.

Mr. Jack Schrier then joined in via conference call at that time, bringing the number of Council members to 11. Mr. Weingart advised him that the resolution for contract with Applied GIS was being discussed.

Mr. Balzano noted that the \$8,900 recurring annual cost did not include system development costs. That would be the issue of subsequent contracts once needs are better determined.

Mr. Zellner noted that the operating budget approved by the Budget and Finance Committee did contain this annual operating cost of \$8,900 and that this fee doesn't kick in until next year. The \$128,000 cost gets the hardware and software up and running and functioning and that the \$8,900 is for FY 07.

Mr. Salovaara asked whether the \$8,900 figure would inflate as time passes and as the program integrates toward becoming web based. Mr. Balzano advised that the contract covers the system meeting the Highlands immediate needs. Future needs will have to be addressed and proposed at a later date.

Mr. Schrier said that Mr. Salovaara's question and concern that the \$8,900 figure is open ended is understandable. Mr. Salovaara added that he wants to be sure that after the Council spends \$128,000, that it doesn't discover it needs to spend another large sum of money to get the system to meet its needs.

Mr. Balzano stated that if there are system developments in the future the Council is empowered to collaborate with the Pinelands regarding technical expertise on project developments. He noted that collaboration with Pinelands is desirable since future system developments could be cost shared with the Pinelands. He added that there are no hidden hooks in the agreement that require future commitment of resources beyond the \$8,900 renewable fee. Mr. Balzano added there may be recommendations for expanding the system in the future, however they are not part of this contract.

Mr. Schrier asked if the Council decides to use another firm in the future, whether it would be limited by entering this license agreement. Mr. Balzano said by purchasing the license agreement it essentially purchases the code, and the Council is not locked in.

Ms. Letts asked if the Pinelands system was operational. Mr. Balzano replied that it is now operational and that they developed it over the course of two years.

Mr. Alstede then disconnected but advised he may be able to return. Mr. Whitenack and Mr. Ben Spinelli both advised that they needed to disconnect shortly.

Mr. Weingart asked if there were any additional questions or comments regarding the resolution to contract with Applied GIS, Inc., and none were received. Ms. Pasquarelli then asked the public whether they had any comments and since none were received, Ms. Swan made a motion to approve, Ms. Pasquarelli seconded the motion, all were in favor, APPROVED.

CONSIDERATION OF RESOLUTION REGARDING AGREEMENT WITH CIVIL SOLUTIONS (voting matter):

Mr. Balzano advised that **Civil Solutions** has an existing statewide contract obtained through competitive bids to provide digital mapping services for tax maps. They are currently under contract with both Warren and Passaic to update their digital parcel coverage.

Mr. Balzano noted that the contract seeks to address the Highlands' immediate critical needs and that it may be necessary to modify the contract in the future. The contract at issue is to obtain information for 6 municipalities that currently have no efforts underway to digitize their tax maps. The total cost is \$25,300 which allows for project completion in two months. There is a \$5,000 additional cost for expedited production.

Mr. Balzano informed that since this data is necessary by the end of September, it is recommended that the Council adopt the resolution to contract with Civil Solutions.

Mr. Schrier said since the Council is paying \$25,000 for six municipalities who have not undertaken any digitizing work, what would be done for municipalities that have completed this process with taxpayer funds. Mr. Balzano said that assistance will be afforded through the grant program.

Mr. Balzano added that the Council needs to fill in critical data gaps to obtain a uniform data layer for the entire Highlands Region. Mr. Schrier advised he was not objecting to obtaining necessary information, however, wanted to be sure that the Council was not showing unfair preference.

Ms. Swan asked once the Council does this mapping for these communities, would it in turn own them. Mr. Zellner replied that it would not. He added that the Council could technically adopt fee schedules, but they would have to be provided publicly. Mr.

Zellner noted that the Council cannot wait because without this critical data it cannot move forward.

Mr. Schrier asked if a provision should be added to the resolution that provides for future equity. Mr. Zellner advised that in the future as the Council discusses grants, this could be considered.

Mr. Balzano suggested that the Council defer that to the resolution for grants, and include a requirement that reports regularly on the amounts of grants that are being distributed to each of the municipalities or counties as a guide to assist the plan development and authorizing grants in the future.

Mr. Schrier requested that a resolution be done for the next meeting to address the issue separately because he is concerned that it could be said towns who have not undertaken mapping measures are being rewarded. Ms. Swan stated that in some cases it has been the County that has undertaken this work and not the individual municipalities, for example, Hunterdon County provided this service for Lebanon Township.

Ms. Pasquarelli stated that the Council needs this data updated and it needs to know who has paid for it. Additionally, she was concerned of possible attempts to shift the responsibility of updating data onto the Council. Mr. Salovaara asked whether the six municipalities have been approached to advise them that the Council is undertaking this action and further, whether they have been asked if they would do cost sharing.

Mr. Balzano replied that staff has spoken to them, but has not asked them about cost sharing.

Mr. Salovaara requested that the Council contact the municipalities and counties in a formal manner to advise it would like them to share in the costs and that when it comes to grants the Council will consider cost sharing as a contribution.

Ms. Cuccinello stated that towns or counties that did not have the foresight for sufficient grants or funding through taxpayer dollars to complete this type of work, should not be penalized.

Mr. Spinelli then disconnected.

Mr. Weingart noted that it would be appropriate to send letters to officials notifying them that the Council is doing this mapping. In the future, the Council could refer back to the fact that it has done this.

Mr. Schrier noted that the Legislature has provided the timeline and should be notified that this is one problem that needs correcting.

Mr. Whitenack then disconnected.

Ms. Pasquarelli said it appeared that the Council is in favor of moving forward with this resolution and since it cannot resolve all the issues that it should be assigned to someone to develop policy statements and rules. It is a broader issue and it needs further attention.

Mr. Di Pirro advised that the Council could put a placeholder on this since a policy issue has been raised, that the Council acknowledges that fact, and that it intends to address it at further meetings.

Mr. Schrier agreed with Mr. Di Pirro to add a notation of what the issue for policy analysis is.

Mr. Salovaara advised that there were currently 8 members participating and that since he needed to leave, asked if the Council could go forward and vote on the resolution as it is.

Ms. Swan asked if the staff knew how many other municipalities currently don't have the necessary data. Mr. Balzano replied that it was Warren and Passaic, with approximately 10 towns that don't have it, and about four that are updating the information.

Mr. Salovaara made a motion to approve, Mr. Schrier seconded the motion.

Mr. Weyl asked if Civil Solutions was the only provider of this service. Mr. Balzano replied that Civil Solutions was currently under an existing statewide contract.

Mr. Salovaara then asked for public comments.

David Shope, Long Valley. Mr. Shope commented that he thought the discussion was unnecessary since presuming to take on work for municipalities who decided they don't need it and maybe don't want it. Since the Highlands need it they should pay for it.

On the prior motion to approve made by Mr. Salovaara and seconded by Mr. Schrier, all others were in favor, and the resolution for contracting with Civil Solutions was APPROVED.

Mr. Salovaara advised he needed to leave and therefore the quorum of 8 members would be lost. Mr. Weingart reminded that there was another resolution for consideration pertaining to grants on the agenda.

Mr. Zellner noted that the Council has crucial timing issues and its ability to move forward would be compromised if the resolution was not voted on.

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

Mr. Schrier requested that under paragraph 1 of the resolution, as part of the title of subparagraph A that the word **counties** be added. Mr. Schrier made a motion for this amendment, Ms. Cuccinello seconded.

Ms. Pasquarelli then asked if there were any public comments to the resolution.

William Drew, West Milford. Mr. Drew asked what the amendment to the resolution was.

Mr. Borden answered that in each of the subparagraphs A through E, that it say “grants to municipalities **and/or counties.**”

Mr. Weingart asked if there were any other member or public comments, and none were received.

On the prior motion to approve with the noted amendment made by Mr. Schrier, seconded by Ms. Cuccinello, all were in favor, and the resolution regarding grants to municipalities and counties was APPROVED.

Mr. Weingart noted that all voting matters had been addressed.

Ms. Pasquarelli then opened a public comment period.

PUBLIC COMMENT PERIOD:

David Shope, Long Valley. Mr. Shope mentioned the anniversary of the Highlands Act and said that the Highlands area is not a separate entity and is part of New Jersey. He thought that the contracts approved today should be expanded to include other parts of New Jersey, particularly to where the water is going. Mr. Shope thought the Orange Mountains should be studied. He thought that the Council should study New Jersey as a whole and not just the Highlands because he believes that the water users in the Highlands are more efficient than other users.

William Drew, West Milford. Mr. Drew asked if the specific tasks referred to in the contracts approved at the meeting would be available to the public.

Mr. Weingart replied that what was approved was the amounts authorized to enter into negotiations with each vendor for contracts not to exceed the amounts in the resolutions. Once the contracts are signed, they will be publicly available.

Mr. Zellner added that once the contracts are signed they will be posted on the website.

Mr. Weingart asked if there were any other public comments. None were received. He noted the next three scheduled events were the August 10th one year anniversary of the Highlands Act, the August 18th next meeting of the Council at the Chester office at 10:00 and the following day on August 19th the Highlands Legislative Day tour of the Highlands.

ADJOURN:

Ms. Pasquarelli made a motion to adjourn, Ms. Swan seconded the motion, and the meeting ADJOURNED at 11:40 a.m.