

**New Jersey Highlands Council
Chair Report for Plan Development Committee
Meeting of December 8, 2005**

On December 8, 2005, the Plan Development Committee held a meeting at the Highlands Office in Chester. Notice of the meeting was provided to the public on the Highlands Council's web site. Council members present at the meeting were: Tim Dillingham, Debbie Pasquarelli, Eileen Swan and John Weingart, Chair. Council members Lois Cuccinello, Jack Schrier and Ben Spinelli participated via teleconference. Council staff members present were: Adam Zellner, Tom Borden, Steve Balzano, Christine Danis, Maryjude Haddock-Weiler and Denise Guidotti.

John Weingart welcomed everyone and introduced Steve Balzano to give an overview of the contracts on the meeting agenda.

Proposed Consultant Contracts

Digital Elevation Mapping/LIDAR - The proposed contract is to be awarded to USGS for the preparation of an updated and accurate digital model of the Highlands to identify areas of steep slopes. Currently, steep slopes are measured in 10-foot intervals. Morris and Somerset Counties, however, have developed very accurate sloped data at 2-foot intervals using laser technology. The contract would be used to bring the other counties up to the level of Morris and Somerset Counties and would enable slope to be determined on a site-specific basis.

The terms of the contract still need to be reconciled and the scheduling and timing of the work is a key consideration. If agreeable terms cannot be reached, the recommendation of award may change. The amount of the proposed contract is for \$345,832.

GIS Data Development Services – The Highlands Council currently has a contract with Applied GIS for data management. The company has changed its name to Fountains Spatial, Inc., which will be the name used in any contract modification.

The purpose of the proposed modification to the contract is to augment our current GIS staffing levels without hiring an additional GIS-related employee. Specific needs include reconciliation of parcel maps with zoning maps for each of the Highlands municipalities. A four page document containing a breakdown of consultant staff and corresponding hourly rates has been provided. The cost of the contract will be more cost efficient than the cost of hiring a full-time employee with benefits. The maximum total amount of the proposed contract modification would be \$50,000.

Fiscal Impact Analysis – A fiscal impact analysis is necessary to help understand the financial implications of the regional master plan (RMP) and to meet a requirement of the Highlands Act. The proposed contract would be awarded to the Bloustein School at Rutgers to examine the costs and benefits associated with the implementation of the RMP. It will develop a financial scenario covering a period of time from 2002 until the

RMP is fully implemented. It will project costs and benefits related to the valuation of land, changes in municipal revenue related to property values and changes in population. A comparable fiscal analysis was done for the State Plan by the professor who would work on the Highlands study, Robert Burchell, to measure the effects of the State Plan. The proposed contract amount is \$49,000. A copy of the fiscal study for the State Plan is available for review at www.state.nj.us/dca/osg/plan/impact.shtml.

Highlands TDR Real Estate Market Analysis - The TDR Real Estate Market Analysis will be a comprehensive analysis of the range of market values for development rights in both TDR sending and receiving areas. It will consider stakeholder input and the receptiveness of the industry to the TDR program. Ultimately it will help produce a market-driven TDR program. Integra Realty Resources is recommended for award of the contract because of their broad base of real estate appraisals in both private and public sectors. Bill O'Hearn from the audience stated that he had worked with Integra and they were very competent and impressive in the amount and quality work they produced. The amount of the proposed contract is \$74,825.

Data Management Services – The proposed contract is for the development of a temporal database to eventually be attached to another larger GIS database. It will convert data into a readily useable format and make it available for incorporation into the fiscal impact analysis. The proposed proposed contract would to be awarded to Vertices, LLC in the amount of \$10,000.

The Committee members asked that all of the above described contracts be highlighted on the budget sheet and presented to the full Council for vote at its next meeting on December 15th. Mr. Weingart asked and confirmed that the members of the Plan Development Committee all were in agreement to recommend approval of the five proposed contracts.

In response to the issue of the low number of responses to the RFQs, Mr. Balzano discussed the fact that the timelines placed in the RFQs were extremely aggressive in order to meet the mandates of the Highlands Act, that the RFQs were distributed to numerous qualified bidders and was published on the Highlands Council website. He also stated that even though the number of bidders was low, the bids received were from extremely qualified firms.

Regional Master Plan Policy Decision Process

Steve Balzano explained that AKRF, the regional planning consultant approved at the last Council meeting, would be assisting staff in the next phase of plan development. Chris Danis reviewed the outline for a Regional Master Plan Scoping and Decision Matrix. The draft scoping document and policy matrix will be presented to the Plan Development Committee in early January 2006. A full day work session will be held in mid-January with the Plan Development Committee, and any other Council members who are available, to review the scoping document and approve its release to the technical advisory committees (TACs).

Eileen Swan noted that this would produce a standardized method for analyzing the large volume of data the Council will be reviewing when writing the Regional Master Plan. A tentative date of January 12th, Thursday, was set for the work session.

Required/Discretionary Standards

Tom Borden discussed the abstract that was distributed to the Committee outlining the concept of required versus discretionary planning standards. The staff proposal is that resource protection elements of the plan would be considered mandatory during plan conformance while growth inducing planning standards would be considered to be voluntary elements. This concept was introduced at the recent partnership meetings and was circulated for the purpose of receiving input. Those who attended the partnership meetings were asked for their comments and the end of each meeting and copies were made available to the Council. Additionally, public comments were solicited and responses have been received from New Jersey Future, the Highlands Coalition and the Coalition for Affordable Housing and the Environment.

Mr. Borden gave an overview of the plan conformance process, noting that sections 14 and 15 of the Highlands Act contain key provisions. The Highlands Act states that the Council can “approve, reject, or approve with conditions” submissions from local government agencies. He outlined the draft process and conformance mechanisms. A pre-submission meeting would create a valuable opportunity for municipalities and counties to be able to anticipate changes that may be necessary in their planning documents in order to conform to the RMP.

The second phase of conformance would be a formal petition submission from the local governing body. Following a determination of completeness would begin the third phase of reconciliation. The reconciliation process would ensure that towns’ and counties’ ordinances and planning documents are in harmony with the RMP. Plan conformance is a compilation of all these elements. Over time, Highlands Council staff will develop a plan conformance manual.

Mr. Borden explained that the comments received at partnership meetings were varied, but generally in support of the required/discretionary plan conformance approach. He said there was also support by the Highlands Coalition for the multi-jurisdictional opt-in approach. The Highlands Coalition also stated that design standards should be part of the required elements of the master plan. Additionally they suggested a moratorium on DEP permits in the planning area until the master plan was prepared. They also supported a transparent plan conformance process.

New Jersey Future had concerns with the voluntary nature of growth elements of the RMP. They were concerned that if a town were identified as appropriate for growth and then did not comply, this could be detrimental to the implementation of the overall balance of the RMP. New Jersey Future was concerned that not requiring adequate density development where it is appropriate would lead to continued sprawl. Additionally,

they felt that this approach might result in the State Planning Commission refusing to endorse the RMP. The Coalition for Affordable Housing and the Environment suggested that COAH substantive certification be a requirement of plan conformance.

Both New Jersey Future and the Highlands Coalition were strongly opposed to partial opt-in by municipalities. They felt it was not regional planning and ran counter to sound planning theory, principles and practice.

A memo to the Plan Development Committee, dated December 8, 2005 regarding “Summary of Public Comments and Plan Conformance Process and Staff Recommendations,” contains three recommendations from staff regarding the plan conformance process.

1. The Highlands Council should direct the staff to design and develop the Regional Master Plan to include required provisions and standards, including resource protection standards, which municipalities and counties must address in the revision of master plans and development regulations to conform them with the goals, requirements, and provisions of the RMP and discretionary provisions and standards, including regional growth standards or those standards that induce or increase the intensity of growth, which a municipality or county may address in the revision of master plans and development regulations to conform them with the goals, requirements, and provisions of the RMP.
2. The Highlands Council should direct the staff to design and develop the Regional Master Plan, specifically the Plan Conformance process, to incorporate a degree of flexibility that allows municipalities and counties to seek adjustment or revisions to the provisions and standards in the RMP based on the identification of additional or new information or alternative approaches so long as the plans and ordinances conform to the goals, requirements, and provisions of the RMP and the required provisions and standards of the Plan.
3. The Highlands Council should direct the staff to design and develop the Regional Master Plan, specifically the Plan conformance process, to require those municipalities or counties submitting petitions for Plan conformance for land in the Planning Area to include all lands within the municipality or county in the petition.

Partnership meetings and subsequent outreach indicated resistance to the idea that growth standards should be mandatory. Mr. Dillingham asked if the three parameters of growth, location, amount and rate, would relate to intensity of growth. Mr. Balzano explained it might include a series of standards for different types of land use.

The staff recommendation is that existing land uses would prevail. The discretionary growth standard would allow conformance with the RMP based on existing zoning. New development, however, would require compliance with the mandatory design standards.

Mr. Spinelli suggested that using the word “ceiling” would clarify the Council’s intent to empower municipalities to choose development up to a maximum amount.

Mr. Schrier joined the meeting via teleconference and Ms. Cuccinello had to exit the telephone conference.

Mr. Spinelli noted that the effect of the RMP may be to not merely shift growth around in the region, but ultimately to reduce growth overall. Mr. Dillingham noted that protection of the environmental resources is of primary importance and the Council should be blind to the line. The Council should leverage their authority to achieve the goals of the Highlands Act. If redevelopment in certain areas is key to the success of the RMP, we should work to achieve that amount of development. Mr. Weingart suggested that there are two parts to the issue: whatever development takes place must conform to the design standards of the RMP, and in the Preservation Area, growth elements of the RMP should not be discretionary.

It was suggested that specific examples would need to be identified in order to fully inform the discussion. Looking from one extreme case to another may help to decide between mandatory or discretionary growth. Many members suggested that although there may be areas in the Preservation Areas that are ultimately found to be appropriate for growth, growth should not be made mandatory.

Ms. Swan suggested that the Council set up a future practice that the language of the Highlands Act prefaces each policy suggestion that it supports. Mr. Dillingham and Schrier also suggested a definition of specific terms, such as the distinction between “growth” and “development.”

Wilma Frey, Highlands Coalition, pointed out that the written comments regarding “design standards” referred to aesthetic design standards, not growth standards.

Jim Tripp, Environmental Defense, suggested that if the RMP required municipalities to adopt growth-inducing policies of the RMP, it would drastically limit the potential for those municipalities to later choose to increase their acceptable zoning density to become a TDR receiving area.

The second staff recommendation refers to “flexibility” in the plan conformance process in order to accommodate new or better information that could not be incorporated during the master plan development process.

Mr. Dillingham noted that the concept of flexibility could create arguments by towns that they have plans that are superior and might ultimately render our plan discretionary. Ms. Pasquarelli added that such an approach could lead to the risk of being arbitrary and capricious. Ms. Swan suggested the word “flexibility” be eliminated. Instead the paragraph should indicate that corrections could be made during the conformance process.

The third staff recommendation is to require plan conformance for the entire geographic area of a municipality. Mr. Schrier explained that he disagreed with the recommendation and felt that this was not the intent of the Highlands Act at the time it was debated. There are 47 towns that are partially in the Preservation Area and partially in the Planning Area.

Ms. Pasquarelli suggested that the Council not encourage the region to become more fragmented by allowing partial opt-in. Mr. Spinelli agreed and stated that a partial opt-in approach would open up the possibility for municipalities to shrink the area we are trying to guide with a regional plan.

Mr. Schrier explained that the Council could gain more compliance by affording partial opt-in. Mr. Dillingham explained that the benefits of conformance would encourage municipalities to want to opt-in fully. Mr. Zellner suggested that if partial opt-in did not achieve the desired level of participation by municipalities, the Council could eventually modify the requirement for full compliance.

Mr. Zellner noted that if the only allowing complete opt in proves to be unsuccessful, the Council could choose at a later date to consider petitions for partial opt in, but that it would be much more difficult to envision a shift in policy in the other direction.

All committee members present, except Mr. Schrier, were in agreement that the Committee's recommendation to the Council should be to not allow partial opt-in. Mr. Weingart suggested that the staff prepare a draft plan conformance process document for consideration by the full Council at their upcoming December 15th meeting. The Council could vote on the draft document and also vote to share it with the public.

The committee agreed that the memorandum would be revised as discussed and provided to the council for the December 15th Council meeting for vote. Mr. Weingart asked that the memo also include a provision that clarifies that decisions related to municipal submissions will be made by the Council, not the staff.

Public Comments

A member of the public asked whether the process document would be voted on. The answer was yes; it would be brought up for a vote at the Council meeting.

Wilma Frey asked that the memo be released to the public prior to the meeting. Mr. Borden offered her a copy of the memo.

A member of the public asked how to find the Property Tax Stabilization Board schedule. Mr. Zellner explained that the Board held their first meeting here in Chester, however, they are a separate entity and their schedule should be located on the Department of Treasury's website.

Another member of the public noted that there still might be confusion about the meaning of opting in. It could be perceived that it means opting in to the Preservation Area and this should be clarified.

The meeting adjourned at 4:35 p.m.