

## McGreevey yielded to Highlands pressure

### *Officials say lobbying resulted in map changes to accommodate development*

By Steve Chambers  
Newark Star-Ledger, October 31, 2004

As the Legislature was debating a landmark bill this spring to preserve great swaths of the state's northern Highlands, officials from Gov. James E. McGreevey's office also were hard at work. In meeting after meeting, they listened patiently as local mayors and legislators pressed to keep pet projects and tax-generating developments out of the 395,000-acre preservation zone, where new construction would be all but forbidden.

It now appears several of those pleas were answered.

A comparison of the final Highlands preservation zone with an earlier draft map acquired by The Star-Ledger found at least a dozen instances in which boundaries were moved, allowing large-scale construction projects to move forward. In most cases, the land removed from the preservation area previously had been deemed environmentally sensitive by state scientists. Some changes aided politically connected developers.

Administration officials steadfastly maintain the final map, designed to protect the region's water resources, was based purely on science and insist neither politics nor favoritism played any role in their decisions. But interviews with numerous elected officials in recent weeks confirmed that map changes -- some small, some covering hundreds of acres -- often resulted from lobbying pressures and political hardball.

"The fact is that accommodations were made," said Morris County Freeholder Jack Schrier, a key player in the preservation effort. "The science went a little weird to accommodate political considerations. It dismayed me."

Among the properties identified by The Star-Ledger as being removed from the preservation area were:

- A 300-acre forested tract west of Lake Hopatcong in Sussex County, which clears the way for construction of a 715-unit senior citizen development called Village Grande.
- A 180-acre wooded property in the Morris County town of Roxbury that allows a politically connected developer to proceed with plans to build 185 single-family houses, despite strenuous objections of local officials.
- A polluted, former factory site that straddles Pompton Lakes and Wanaque where an influential legislator intervened. The owners of the Passaic County property want to build a golf course on the site.
- A farm in Washington Township in Morris County that will be the site of a large retail store's moving in after meeting with township planners, administration officials also scaled back plans to add more land to the preservation zone, allowing a 360-unit senior development to go forward, according to Mayor Kenneth Short. "We told them (the senior project) was very important tax-wise to the residents of the town, and they worked with us and moved the line," Short said. "They were cooperative."

## IN THE BEGINNING

The map and legislation creating the Highlands preservation zone culminated decades of lobbying by environmentalists who feared development's impact on the water supply. The Highlands region -- which spans four states, including 800,000 acres in seven northwestern New Jersey counties -- supplies drinking water to half the state. A 2002 report by the U.S. Forest Service found that overdevelopment was beginning to threaten that supply.

McGreevey last year appointed a task force to decide how best to protect the region. On March 13, the group released a detailed report. Within weeks, legislators introduced a bill that followed recommendations point by point. The bill proposed a powerful regional council with veto power over major development in a vast preservation zone that eventually included all or parts of 51 towns. Even before the task force report was released, Curtis Fisher, a policy expert in McGreevey's office, and state Sen. Bob Smith (D- Middlesex), a key sponsor of the legislation, began meeting with small groups of mayors and county officials. These meetings, designed to build support for the bill, quickly became forums on pet projects, according to officials in attendance.

Many mayors said they could live with preserving critical areas, but wanted assurances long-discussed projects wouldn't be killed. For developers, the precise placement of boundaries could make or break projects worth hundreds of millions of dollars.

The mapping process started with data assembled by Rutgers University researchers, who relied on aerial and satellite photographs to pinpoint important reservoirs, feeder streams and buffering forests. Computer mapping experts at the Department of Environmental Protection then used established landmarks such as roads, town borders, rail lines and rivers to create the map's boundaries. The selection of landmarks was the most subjective part of the process and gave the administration tremendous leeway.

As the administration held closed-door meetings with local officials in the spring, DEP mappers were making hundreds of changes that caused thousands of acres to move back and forth across the line. Lobbying by officials in Pohatcong, Tewksbury, Chester Township and Lebanon Township -- who wanted to put the brakes on development - prompted the DEP to add land in those towns to the preservation zone.

Builders, property owners and other critics of the bill, meanwhile, were beginning to complain that the administration was being too secretive. Weeks had passed since the bill was introduced, but there was still no map -- at least one that could be viewed by the public. Finally, on April 16 it was released. The Legislature approved the bill June 10, and McGreevey signed it into law Aug. 10, just two days before he announced he would resign.

## COMPARING MAPS

To determine whether any large-scale projects were spared by shifting the Highlands boundaries, The Star-Ledger last month requested that the DEP release draft versions of the map. The agency refused, arguing such documents were exempt from the state's open records laws. The newspaper then obtained a draft map of the preservation zone from a confidential source. That version -- labeled "Draft Map: 2/17/2004" - was created by the DEP and used by the Highlands task force.

In an interview, DEP Commissioner Bradley Campbell dismissed the draft as being rough "data sets" showing forested land, watersheds and other environmentally sensitive areas. He said it lacked properly drawn borders, known as metes and bounds. But when the two maps were

overlaid and analyzed on a computer using GIS, or Geographic Information Systems, software, the borders were mostly the same, with only slight changes along the fringes.

"There were never any changes made at the DEP in response to site-specific lobbying by developers or municipalities," Campbell said, when first asked about the shifting boundaries last month. Confronted later with several instances in which local officials said the map was changed to accommodate them, Campbell conceded discussions on boundaries had taken place with legislators and mayors. But he insisted any changes could be defended on scientific grounds.

He said some local officials brought evidence that the DEP's information was outdated. For example, land the DEP thought was forested based on aerial photographs taken several years ago might now include development, he said. "Those are things you have to address or you would undermine the credibility of the effort," Campbell said. "In each case, we had justification based on science and data."

Eric Shuffler, counselor to McGreevey and a key architect of the Highlands initiative, also said that talks took place but that they were necessary to build support for the legislation. "When towns expressed more willingness to be in, you always try to look more favorably on their requests," he said. "But this map was drawn 99.7 percent by the water. There was no horse-trading. There were discussions to make sure we got the (boundaries) right."

Administration officials say the end result protects the most vital watershed areas in the Highlands for all time. They also say there were many instances in which powerful builders lobbied hard to get their projects placed outside the line without success.

Although the final map did indeed kill many large planned developments, some environmentalists are dismayed to learn that the kind of large-scale projects that spawned the preservation bill are still being allowed in the Highlands. "We're going to lose lots of stuff we've been fighting 20 years to stop," said Jeff Tittel of the state Sierra Club chapter. "A lot of the map is based on science. But in some areas, the gerrymandering would have made Mayor Frank Hague blush," he added, referring to the Jersey City mayor.

But other longtime advocates of Highlands preservation are more pragmatic about the results. Tom Gilbert, chairman of the Highlands Coalition, said an early decision to exclude as much farmland as possible -- farmers are a strong lobby that dislike forced preservation - was political, as well. "The political process is rarely pure and scientific," Gilbert said. "That is not the nature of the beast."

#### GIVE AND TAKE

Hopatcong Mayor Richard Hodson admits he lobbied the state to keep the \$182 million Village Grande project -- with its 715 units of senior housing -- out of the preservation zone. But he said he is uncertain if his efforts were the reason the line was changed. Still, some readily admit the line was redrawn to save projects they deemed important.

"If a mayor wanted a project and it was good for the town and the line was close, why wouldn't you move it?" said Assemblyman John McKeon (D- Essex), a bill sponsor. "There was nothing nefarious about this."

Local opponents of Village Grande in Hopatcong are livid that the project didn't find its way into the preservation zone. "I don't understand the Highlands bill," said Andy Orinick, a neighbor. "Wasn't it supposed to protect places like this?"

Concerns over the fate of the Village Grande development were raised at a closed March 3 meeting attended by Fisher, Smith and every mayor in Sussex County, according to officials in the room. When the map was released on April 16, the line had been redrawn so the Village Grande property was just outside the preservation zone. DEP officials said Old Stanhope Road -- which the property fronts - were the most logical border, even though the draft map used a nearby state-approved growth boundary as the line.

Around the time the final map was being drawn, Village Grande's developer, D.R. Horton Inc., made a \$25,000 donation to the state Democratic Party, by far its largest contribution in decades, according to election records. Administration officials said the contribution played no role in their decision. Numerous phone calls to the Texas-based developer's New Jersey office seeking comment were not returned.

The administration agrees that the Sussex County meeting in March was designed to win the support of Sen. Robert Littell (R-Sussex), who has a history of fighting state-led preservation efforts that interfere with local economic development initiatives. Some of the biggest map changes occurred in Sussex County, and addressed the concerns raised by mayors and county officials. The Route 94 corridor was left outside the preservation zone, as were large sections of Vernon, where Intrawest Corp. has plans to expand Mountain Creek ski resort.

John Eskilson, the Sussex County administrator who orchestrated the early meetings with the administration on the map, said there was appropriate give and take. "The line in Sussex County was drawn in a way that was satisfactory to the municipalities and their overall planning needs," he said. "Some of those planning needs are preservation and some are for growth."

#### POLITICAL PERSUASION

Local politicians were not the only ones whose projects were saved by line changes. In Roxbury, a large Democratic contributor came extremely close to having his property put into the preservation zone.

Villages at Roxbury, a development of 185 single-family houses in the planning stage, might have been killed if the draft map had been implemented. Instead, the development by Continental Properties wound up just outside the preservation area. Since August 2000, the company's owners have donated \$252,258 to the state Democratic Party, including \$40,000 between April and June of this year, election records show.

One of the partners in the family-owned business, Mark Fisch, is a member of an advisory group of developers assembled by the administration and he was appointed by McGreevey to the Council on Affordable Housing. Fisch did not return messages left at his office.

Others did not hesitate to discuss the borders and how they were drawn. "The basic program was to draw the line the best they could initially on science, with an understanding that the edges would allow a little bit of discretion," said Sen. Bob Martin (R-Morris), a bill sponsor. "It was recognized that to acquire support, there might be small compromises to acquire the greater good."

Martin wasn't speaking in the abstract. He said he made sure the Pompton Lakes golf course project was protected after he was asked to do so by Mayor John Murrin. "Senator Martin realized Pompton Lakes needed this ratable," Murrin said. "He was very helpful."

In some cases, map changes were less a matter of gentle persuasion than hard-fisted political

wrangling. In an effort to protect two developments in his district, Sen. Henry McNamara (R-Bergen) teamed up with South Jersey Democrats to bottle up the bill in committee until concessions were granted.

Among those concessions were the inclusion of grandfathering language that means a 750-unit development on the Wanaque Reservoir can get built. He also demanded and received a change that will allow the last 12 houses of an upscale Mahwah development called Rio Vista to be built adjacent to a county park. "They mistakenly put a multimillion development that was 75 percent completed in the no-build zone," McNamara said. "I love for everybody to have their place in history but not on the backs of the property taxpayer."

*Steve Chambers covers land-use issues. He can be reached at [schambers@starledger.com](mailto:schambers@starledger.com) or (973) 392-1674.*

*Copyright 2004 The Star-Ledger*