

## Opinion: Gov. Christie Plays Partisan Politics with Regional Planning

The governor's strident remarks about the Highlands Act ignore 40 years of bipartisan efforts on environmental issues

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By **Michael Catania**,

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*"The failure of the Highlands Act is that it violated people's rights. It promised to compensate for that violation and it never did.... These Democratic legislators who run the place don't care about this issue. They got the land without having to pay for it and now they don't want to figure out how to compensate these folks for it."*

That's Gov. Chris Christie at a town hall meeting in Hackettstown, coming down hard on the side of those who want to dismantle the regional planning program designed to protect the quality and quantity of water for more than 5 million New Jersey residents.

The governor came out swinging, blasting both the implementation of the act and the Democrats who refuse to amend or repeal this landmark legislation.

Christie also announced his own slate of nominees to replace a majority of Highlands Council members with folks who are acknowledged opponents of the Highlands Act.

The governor offered these nominations as a way to "bring a more commonsense application to the Highlands Act" but also called on voters to give him a Republican majority in the legislature next November so that "we can examine the Highlands experiment to see whether it worked or not."

The governor's efforts to turn the Highlands into a partisan political issue are completely at odds with a longstanding *bipartisan* tradition of supporting regional planning. For more than 40 years, governors and legislators have understood the environmental and economic benefits of taking a regional approach to land use:

- Republican Gov. William Cahill starts things off in 1969, creating the Hackensack Meadowlands Commission, passing the Wetlands Act of 1970 and the Coastal Area Facility Review Act of 1973
- Democratic Governor Brendan Byrne signs legislation establishing the Delaware & Raritan Canal Commission in 1974, then champions creation of the Pinelands Commission in 1979 and the State Planning Act
- Republican Governor Tom Kean signs State Planning Act in 1985, uses executive authority to secure passage of the Freshwater Wetlands Protection Act in 1986
- Democratic Governor Jim Florio breathes new life into statewide planning efforts in the early 1990s, lays foundation to protect the Highlands area
- Republican Governor Christine Todd Whitman implements legislation to permanently preserve another 1 million acres of open space and farmland
- Democratic Governor Jim McGreevey devotes virtually his entire State of the State Address in 2003 to an anti-sprawl, pro-regional planning message, signs the Highlands Water Policy and Planning Act in 2004
- Democratic Governor Jon Corzine enacts tough statewide measures so New Jersey can participate in a regional compact with other northeastern states to combat global warming, continues McGreevey initiative to mandate broad buffers around high-quality surface waters

Each of these visionary initiatives was considered controversial in its day. Many were challenged in both state and federal courts. Each time, including the recent challenges to the Highlands Act, both federal and state judges upheld these actions as constitutional and reasonable exercises of the state's power to protect its citizens and their environment.

But beyond surviving legal challenges, these regional planning efforts have provided tangible benefits -- by helping to stabilize local property taxes, retain the character of our rural areas, redevelop our urban areas and generally promote smart growth in places where it is more cost-effective to build roads, sewers and public water systems.

While running for governor, Christie seemed to get all of this. No one expected things would change much when it came to regional planning.

So it comes as a shock to learn that our governor suddenly thinks the Highlands Act may well be an unconstitutional taking of private property without due compensation.

Even more shocking is that the governor believes this problem is unlikely to be solved until the voters throw the Democrats out of office and give him a Republican-controlled legislature that will amend or repeal the Highlands Act.

There are several problems here.

As a former federal prosecutor, the governor knows just as well as any first-year law student that the courts have consistently held that a mere diminution in property values does not constitute "taking." He also knows that the constitutionality of the Highlands Act has already been adjudicated and put to rest.

What about the governor's claim that the Highlands Act has "violated people's rights"?

There has been no finding whatsoever, in any legitimate forum, that anyone's rights have been violated. Similarly, in the midst of the worst economic downturn since the Great Depression, there is no evidence that the Highlands Act or the new regional master plan have anything to do with lower property values.

Perhaps the governor has missed the fact that the Highlands Act is working exactly as was intended, as town after town lines up to come into conformance with the new regional master plan. Perhaps he hasn't realized that, given just a bit more time, the Highlands plan will succeed in ushering in smarter growth, helping to stabilize taxes in Highlands towns and protect the quality and quantity of public drinking water.

One has to wonder why our governor would want to risk achieving these goals, and why Republican legislators would want to turn their backs on their environmental legacy and follow Christie's misguided lead on this issue.

The governor would have us believe that the Highlands Act has failed because we have not compensated landowners who have to accept the new restrictions against runaway development that everyone knows would threaten our water.

The real irony here is that New Jersey voters approved a \$400 million Green Acres Bond Act in November 2009 to preserve open space and farmland from willing sellers throughout the State. These funds -- which were approved by a higher percentage of voters than the plurality that elected Christie -- could go a long way toward providing the compensation the governor feels is so overdue to Highlands landowners.

Unfortunately, the spending of those funds has been stalled by none other than the governor. Although he has said in the past that he would respect the wishes of voters and allow these funds to be spent, that commitment is now looking a bit more questionable. Can the governor really have it both ways, bemoaning the lack of compensation to Highlands landowners while blocking the very funds that would provide that compensation?

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