

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MEETING MINUTES OF OCTOBER 20, 2016

PRESENT

JIM RILEE)	CHAIRMAN
KURT ALSTEDE)	VICE CHAIR
TRACY CARLUCCIO)	COUNCIL MEMBERS
MICHAEL R. DRESSLER)	
MICHAEL FRANCIS)	
ROBERT HOLTAWAY)	
BRUCE JAMES)	
CARL RICHKO)	
RICHARD VOHDEN)	
JAMES VISIOLI)	
ROBERT G. WALTON)	

ABSENT

TIMOTHY P. DOUGHERTY)
MICHAEL SEBETICH)
MICHAEL TFANK)

CALL TO ORDER 148TH meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:03pm.

ROLL CALL

Roll call was taken. Members Carluccio, Dougherty, Dressler, Sebetich, and Tfank were absent. All other Council Members were present. *The following staff members were present: Margaret Nordstrom, John Maher, James Humphries, Corey Piasecki, Kim Ball Kaiser, Maryjude Haddock-Weiler, Carole Ann Dicton, Tom Tagliareni, Herb August, Ranji Persaud, Keri Green. Also present were Lisa LeBoeuf, Assistant Counsel, Governor's Authorities Unit, and Matthew Kelly, Deputy Attorney General.*

OPEN PUBLIC MEETINGS ACT

Ms. Tagliareni announced that the meeting is being held in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. The Highlands Council sent written notice of the time, date, and location of this meeting to pertinent newspapers of circulation throughout the State and posted notice on the Highlands Council website.

PLEDGE OF ALLEGIANCE was then recited.

Member Dressler was present at 4:04pm.

APPROVAL OF HIGHLANDS COUNCIL MINUTES OF JULY 21, 2016.

Chairman Rilee asked for a motion on the Minutes of July 21, 2016.

Member James made a motion to approve the Minutes of July 21, 2016. Mr. Richko seconded it.

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A roll call vote was taken. The Minutes of July 21, 2016 were APPROVED 10-0.

CHAIRMAN'S REPORT

There was no Chairman's Report.

Council Reports

There were no Council reports.

EXECUTIVE DIRECTOR'S (ED) REPORT

Ms. Nordstrom highlighted some of Council staff's activities.

Plan Conformance Implementation

Oakland Borough, Bergen County adopted its Planning Area Petition Ordinance on September 14, 2016; deemed consistent on September 26, 2016.

Municipal Issued Exemptions - Preservation Area:

- Jefferson Township, Morris County: Exemption 4 – 1 issued; Exemption 2 – 1 issued.
- Montville Township, Morris County: Exemption 5 – 1 issued; Exemption 2 – 1 issued.
- Byram Township, Sussex County: Exemption 4 – 2 issued.

Personnel Update

Staff member Jim Hutzemann, Senior Engineer for the Council resigned from his position and his last day was September 30, 2016. A Civil/Environmental Engineer position was posted to the Highlands Council and New Jersey Civil Service Commission Job Seekers websites on September 28, 2016 and will remain posted through October 21, 2016.

Also, staff member Kelley Curran who was hired as a part-time Resource Management Specialist in November, 2014 will now be working as a full-time Resource Management Specialist. Her anticipated start date for this position is October 31, 2016.

Member Carluccio was present at 4:07pm.

RMP Update Committee

At this time Vice Chair and Committee Chair Alstede introduced consultant Steve Gunnells from PlaceWorks to present the final Fiscal Impact Assessment (FIA). The presentation may be found on the Highlands Council website after the meeting:

http://www.nj.gov/njhighlands/about/calend/2016_meetings/oct_20/preso_fia_oct20.pdf

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Council Comment

Chairman Rilee asked when the full document will be released. Ms. Nordstrom responded that the full document will be released in time for the December meeting.

Member Holtaway commented that he didn't see the indicator regarding tax per capita in the summary presentation as was discussed in the committee meeting. Mr. Piasecki noted that the tax per capita will be included in the Municipal Fact Book for all municipalities and counties and the Council will receive that section in December along with the complete FIA report. Mr. Piasecki noted "tax per capita" will be an indicator.

Member Francis requested more analysis that directly reflected the Preservation Area, specifically related to jobs and building permits. Mr. Gunnells explained the challenge in providing that level of analysis due to how that data has historically been tracked. He also noted that the state has changed to a digital method for building permits, which will make it easier to delineate between Preservation and Planning Area in future analysis.

Member Dressler asked about northern New Jersey towns that were not included in this analysis. Mr. Gunnells explained that some municipalities that had high density were not included in the analysis to ensure they did not skew the data. Member Dressler asked for a list of those towns that were not included.

Vice Chair Alstede asked for Mr. Gunnells to expand on the large parcel sales and how best to analyze them. Mr. Gunnells suggested that a survey be conducted (hedonistic style) regarding large parcel sales with agricultural value vs. development use vs. water/sewer vs. schools. Mr. Alstede asked when a lack of sales will become an indicator. Mr. Gunnells explained that when comparable large parcel sales begin to be recorded outside the Highlands Region but near it, then there will be a basis for analysis.

Chairman Rilee reiterated that Council will receive the full report of the FIA in December.

Amending the Regional Master Plan

At this time, Ms. Nordstrom presented a flow-chart graphic illustrating a conceptual process for amending the Regional Master Plan (RMP). Ms. Nordstrom noted that Chief Counsel John Maher will provide a written procedure for Council's review prior to Council's next meeting. The graphic may be found on the Highlands Council's website:

http://www.nj.gov/njhighlands/about/calend/2016_meetings/oct_20/preso_rmp_amend_process_oct20.pdf

Landowner Equity & Land Preservation Committee

Member Walton gave a report on the committee's activities.

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Programs

Mr. Walton first reported on the funding for the HDC Purchase Program (HDCPP) and the Open Space Partnership Grant (OSPG) Program, noting that Council and the committee had previously agreed to allocate \$9M of the \$18.6M PSE&G mitigation funding across both programs with no set determination of how much would go to each program. Due to the overwhelming response to both programs (over \$20M in requests for the HDCPP alone), the committee recommended to Council to approve the full \$9M towards the highest ranking HDCPP applications based on the criteria established in the Rule (N.J.A.C. 7:70). Mr. Walton noted that staff is still reviewing the OSPG Program applications so the remaining approximately \$9M would be distributed between the OSPG Program and the remaining HDC Program after a review of the OSP applications.

Committee Chair Walton made a motion to allocate \$9M of the \$18.6M PSE&G mitigation funding to fund the HDC Purchase Program. Member Vohden seconded it.

Chairman Rilee asked if the motion needs to be in the form of a resolution. Chief Counsel John Maher noted that the funds were approved previously by Council so the motion on the floor is appropriate.

Council Comment

Ms. Carluccio asked if the ranking of applications considered proximity to the PSE&G line a priority and does Council staff feel confident that that is being applied. Council staff responded that all of the properties that are within the buffer of the right-of-way are proposed to be funded through this \$9M mitigation component of the PSE&G Comprehensive Mitigation Plan (CMP).

Public Comment

Chief Counsel noted that Public comment is not required since the Council previously approved these funds and that is when the Public had an opportunity to comment. The actual properties that will be purchased will be selected by the HDC Bank. This is simply a motion recommending that the full \$9M be allocated to HDC credits and as a motion from the floor it is not subject to Public comment.

A roll call vote was taken. The motion was APPROVED 11-0.

Committee Chair Walton concluded that at the HDC Bank meeting scheduled on November 3, 2016 the Bank will consider the HDCPP applications and authorize the purchase of HDCs under the HDCPP for properties that meet the criteria specified in the (N.J.A.C. 7:70).

Water User Fee

Committee Chair Walton then reported on the committee's efforts to support a water user fee. Mr. Walton noted that this resolution represents a year's work by the committee to determine

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what would be a fair compensation model to recommend to the Legislature to sign into law. Mr. Walton noted that at the passage of the Act it was promised to landowner in the region that they would be compensated. There was a general recommendation by sponsors of the Act to compensate landowners and that has not yet happened. The TDR Program has issues and is not funded at this time. Mr. Walton added that there have been efforts for open space funding in the Region, but never funding for landowner compensation. The cost of preserving the land that contains the water is not captured in water bills. The committee wants to formalize a recommendation to the Legislature to establish a water user fee to be use to compensate landowners for their role in preserving the land that contains this pristine water. The committee wanted this fee to be fair.

Resolution – Support For A Water User Fee As A Dedicated Source Of Funding For Land Conservation

Mr. Walton made a motion on the Resolution. Mr. Dressler seconded it.

Council Comment

Chairman Rilee thanked the committee for their efforts to recognize that property owners need to be compensated in the Region and noted that this is a step in the right direction.

Member Visioli conveyed his thanks to Council staff and the committee.

Member Holtaway strongly supports the water user fee, but in his opinion the rate of 0.1 cent per gallon could be increased.

Committee Chair Walton noted that the water user fee would include a review of the property owners' lost value due to the passage of the Highlands Act.

Member Dressler commented that he believes this resolution sends a strong message to the Legislature.

Member Carluccio was concerned about the economic impact of this water user fee and suggested perhaps Council should provide an economic analysis. Ms. Carluccio was also concerned with some of the language used in the resolution related the Highlands Act and RMP.

Member Richko supports the water user fee, but he proposed three changes to the language used in the resolution:

- Eighth WHEREAS Paragraph, page 1 of the resolution - The word “one-half” refers to 2004. The words “now 70 percent” should be added in parenthesis.
- Ninth WHEREAS Paragraph, page 1 of the resolution. The word “some” should be added to read: “...the Highlands Act burdens “some” property owners....”

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- Paragraph 2, page 3 of the resolution - The word “harmed” landowners should be change to “affected” landowners.

Committee Chair Walton amended his motion to approve the Resolution, as amended with these three changes. Member Visioli seconded the motion.

Vice Chair Alstede read an excerpt from the Act (C.13:20-2) to support this resolution. Member Carluccio did not agree with the words in the resolution and would consider the words Mr. Alstede recited.

Member Dressler thanked the committee for its work.

Public Comment

Elliott Ruga – NJ Highlands Coalition – Mr. Ruga spoke in support of the water user fee, but believes there are mischaracterizations of the Highlands Act in the resolution.

Member James left the meeting temporarily at 5:27pm.

Deborah Post, property owner in Chester Township – Ms. Post spoke in opposition of the resolution and does not agree with the sunset provision.

Member James returned to the meeting at 5:29pm.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey stated that she would support a water user fee to be used for conservation purposes as describe in the title of the resolution, but noted conflicting language of “compensation” elsewhere in the resolution and urged Council to table this resolution to rewrite it for clarification purposes.

David Peifer, Association of New Jersey Environmental Commission – Mr. Peifer requested more time to review agenda items. His organization supports a water user fee, but agrees with Ms. Frey and feels there is a lack of specificity in the resolution and Council should table.

George Stafford, Wharton, NJ – Mr. Stafford supports a water user fee, but agrees that the resolution needs to be reworked.

Hank Klumpp, Tewksbury, NJ – Mr. Klumpp made comments on the Holstein Real Estate report and the lost values in the Highlands. Mr. Klumpp spoke in opposition of the sunset provision in the resolution, but would like the resolution to be approved.

Bill Kibler, Raritan Headwaters Association – Mr. Kibler supports a water user fee that is used to preserve open space, farms and an existing TDR or HDC program, but cannot support this resolution as written.

Ed Wengryn, New Jersey Farm Bureau – Mr. Wengryn spoke in support of the water user fee resolution.

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David Shope, Lebanon Township, NJ – Mr. Shope hopes this resolution is approved.

Council Comment

Member Richko commented that he agrees with the water user fee, but has concerns with some of the negative language noted in the resolution as it pertains to the Act and feels the resolution should be reviewed further.

Mr. Richko made a motion to table the resolution. Ms. Carluccio seconded it.

A roll call vote was taken. The motion FAILED by 4-7.

There was continued discussion amongst Council members on the resolution process.

All members present voted on the Resolution as amended. The Resolution was APPROVED 8-2, with one abstention by Member James.

Committee Chair Walton thanked Council staff, committee members, Chief Counsel, and Chairman Rilee.

Member Visioli left the meeting at 5:57pm.

Audit Committee

Committee Chair Walton reported that the Audit Committee approved the recommendation of the Audit Evaluation Committee to approve Mercadien, P.C. as the Council's auditor.

Mr. Walton made a motion on the Resolution. Ms. Carluccio seconded it.

Public Comment

Deborah Post, property owner in Chester Township – Ms. Post requested that the audit include detail regarding how many persons on the payroll will receive government pensions.

There was no Council comment.

All members present voted on the Resolution. The Resolution was APPROVED 10-0.

Budget and Finance Committee

Committee Chair Holtaway gave an overview of the FY2017 General Operating Budget. Committee Chair Holtaway also noted that there are no staff budgets for increases.

Resolution - Approval of Fiscal Year 2017 General Operating Budget

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Mr. Holtaway made a motion on the Resolution. Mr. James seconded it.

Public Comment

Deborah Post, property owner in Chester Township – Ms. Post commented in opposition of the General Operating Budget for staff who will receive pensions and landowners will not be considered fairly.

Council Comment

Mr. Richko commented for the record that Council staff has not received a salary increase for at least nine years while deductions from their paychecks have increased.

All members present voted on the Resolution. The Resolution was APPROVED 9-1.

Members James and Walton left the meeting at 6:03pm.

Resolution - Approval of the FY2017 Highlands Protection Fund Capital Budget

Committee Chair Holtaway gave an overview of the FY2017 Highlands Protection Fund Capital Budget.

Mr. Holtaway made a motion on the Resolution. Mr. Richko seconded it.

There was no Public comment.

There was no Council comment.

All members present voted on the Resolution. The Resolution was APPROVED 8-0.

Resolution – Approval of a Transfer of Development Rights Receiving Zone Feasibility Grant City of Jersey City, Hudson County

Chairman Rilee announced that this resolution would be pulled from the agenda to gather additional details. The resolution will be considered at Council's next meeting.

Other Business:

Resolution – Authority For Highlands Plan Conformance and Highlands Project Review

Mr. Holtaway made a motion on the Resolution. Mr. Francis seconded it.

Council Comment

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Ms. Carluccio commented that she does not support this resolution and referenced Paragraph #5 on Page 3 that she feels Council should review.

Chairman Rilee pulled this resolution from the agenda and will consider at Council's next meeting.

Resolution – Annual Meeting Schedule for 2017

Mr. Dressler made a motion on the Resolution. Mr. Holtaway seconded it.

There was no Council Comment.

There was no Public Comment.

All members present voted on the Resolution. The Resolution was APPROVED 8-0.

Member Dressler left the meeting at 6:09pm.

Chairman Rilee opened the meeting to the general public for comments.

Public Comment

George Stafford, New Jersey Highlands Coalition – Mr. Stafford commented on the Fiscal Impact Assessment presentation and stated the State Department of Taxation has tax information on all municipalities and counties and questioned why this information was not used in the analysis.

Elliot Ruga, New Jersey Highlands Coalition – Mr. Ruga questioned why the Jersey City TDR grant resolution was pulled. He stated the Highlands Coalition is interested in seeing a viable TDR program and noted that the Coalition sees a lot of development potential in Jersey City.

Hank Klumpp, Tewksbury, NJ – Mr. Klumpp commented on how property values have been taken by the Highlands Act and asked how can taxes be paid on undeveloped land.

Deborah Post, Chester, NJ – Ms. Post spoke about just compensation for landowners.

David Shope, Lebanon Township, NJ – Mr. Shope stated that no TDR credits have been transferred.

Member Richko made a motion to adjourn the meeting. Member Holtaway seconded it. All were in favor. The meeting was adjourned at 6:22pm.

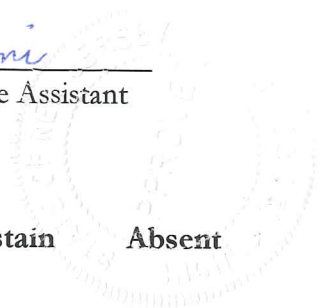
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CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Water Protection and Planning Council.

Date: 12-1-16

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant



**Vote on the Approval of
These Minutes**

	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede			✓			
Councilmember Carluccio			✓			
Councilmember Dougherty			✓			
Councilmember Dressler						✓
Councilmember Francis		✓	✓			
Councilmember Holtaway			✓			
Councilmember James			✓			
Councilmember Richko			✓			
Councilmember Sebetich						✓
Councilmember Tfank			✓			
Councilmember Visioli			✓			
Councilmember Vohden			✓			
Councilmember Walton	✓		✓			
Chairman Rilee			✓			