

**HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF FEBRUARY 2, 2012**

PRESENT

THEODORE MAGLIONE)	ACTING CHAIRMAN
SUSAN E. PAYNE)	DIRECTOR
ROBERT HOLTAWAY)	DIRECTOR
KENNETH KLIPSTEIN)	DIRECTOR
ANDREW L. MCELROY)	DIRECTOR
JIM RILEE)	DIRECTOR
ROBERT WALTON)	DIRECTOR

VIA TELECONFERENCE

DALE DAVIS III)	DIRECTOR
----------------	---	----------

ABSENT

RALPH SIEGEL)	DIRECTOR
--------------	---	----------

CALL TO ORDER

The Acting Chairman, Theodore Maglione, called the 13th meeting of the Highlands Development Credit Bank Board of Directors to order at 4:02 pm. Acting Chairman Maglione welcomed the Bank Board's new member Andrew McElroy.

ROLL CALL

Roll call was taken. All members were present with the exception of Ralph Siegel. Director Davis was present via telephone conference.

OPEN PUBLIC MEETINGS ACT

Acting Chairman Maglione announced that the meeting was called in accordance with the Open Public Meetings Act at N.J.S.A. 10:4-6. The Highlands Development Credit (HDC) Bank had sent written notice of the time, date, and location of this meeting to pertinent newspapers of circulation throughout the State and posted the same on the Bank's website.

PLEDGE OF ALLEGIANCE was then recited.

Acting Chairman Maglione reported that Item #6 on the agenda – Resolution – Election of Treasurer will be tabled and postponed until the Bank's next scheduled meeting. Acting Chairman Maglione also noted that the next Bank meeting is scheduled for August 2, 2012 at 4:00pm.

APPROVAL OF MEETING MINUTES AND EXECUTIVE SESSION MINUTES FOR OCTOBER 27, 2011. *Director Klipstein introduced a motion to approve the minutes and Director Walton seconded it. Director Siegel was absent. The motion was APPROVED 6-0, with two abstentions.*

ACTING CHAIRMAN'S REPORT

Acting Chairman Maglione had no report.

**HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF FEBRUARY 2, 2012**

EXECUTIVE DIRECTOR'S REPORT

Ms. Swan began her report aided by a PowerPoint presentation and noted that the presentation, audio and minutes are posted on the website. Ms. Swan also reported that she will repeat information known by members in order to assist the Bank Board's new member get up to speed on the process. She described the process to obtain a Highlands Development Credit (HDC) Allocation. An estimate of an HDC Allocation is something that any member of the public (in a residentially zoned sending area) can obtain on the Highlands Council's website tool. To obtain a formal HDC Allocation, landowners may submit an application for an HDC Allocation from the Highlands Council. Commercially zoned property owners in a sending area can similarly apply directly to the Council for an HDC Allocation.

Status of Highlands Development Credit (HDC) Allocations

Ms. Swan reported that the Highlands Council has received HDC Allocation Applications from 78 property owners since launching the program in November 2009. To date, 55 property owners received an HDC allocation while the 19 property owners did not receive any allocation. Four applications are pending final review. Properties do not receive an allocation where there is no remaining development potential for which HDCs could be allocated. This may occur because of pre-Highlands Act environmental constraints, access issues, undersized lots, or existing easements or deed restrictions. To date, the Highlands Council has allocated a total of 1,205.50 HDCs to these properties representing a total HDC value of \$19,288,000 based upon the \$16,000 initial credit price. The total acreage receiving an HDC allocation to date is 2,314 acres. The average price per acre is \$8,334.

Ms. Swan reported that the HDC Bank created an Initial Purchase Program to acquire HDCs from qualified applicants and to date has completed three rounds:

- First Round – 87 HDCs on 109 acres acquired for \$1,392,000.
- Second Round – 54.50 HDCs on 80 acres to be acquired for \$872,000.
- Third Round – 261.75 HDCs on 144 acres to be acquired for \$4,188,000.

Under the program to date, the Bank has acquired 311.75 HDCs resulting in the permanent protection of 249 acres. Closings on six properties are pending and should these offers all close the program will have preserved nearly 500 acres.

Ms. Swan displayed a map which showed the geographical locations of: HDC Allocations; properties where the conservation deed had been filed and properties where a closing is pending to date.

Ms. Swan continued to report that the HDC Bank approved a Fourth Round of funding with the following deadlines:

- November 3, 2011 – deadline for submitting HDC Allocation Application to the Highlands Council if property owner has not already done so.
- December 29, 2011 – deadline for submitting HDC Certificate Application to HDC Bank where property qualifies for Bank consideration.
- February 2, 2012 – HDC Bank meeting to review applications that qualify for Fourth Round consideration

**HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF FEBRUARY 2, 2012**

Ms. Swan then showed a chart which outlines the steps for a HDC Bank Purchase. She noted that the HDC Bank has established 5 priority acquisition categories of the HDC Purchase Program as follows:

1. Missed qualifying for Exemption #3 and have extenuating financial circumstances;
2. Suffer from extenuating financial circumstances;
3. Missed qualifying for Exemption #3;
4. Qualified for Exemption #3, but exemption expired; or
5. Property located in either Special Environmental Zone or High Value Agricultural Priority Area, and property owner previously offered property for preservation purposes and were denied. The Act allows three avenues for landowners to preserve their land and they are: State Agriculture Committee, Green Acres Program and TDR/Highlands Development Credit Bank.

Acting Chair Maglione asked for a motion to go into Executive Session. *Director Klipstein made a motion at 4:17pm to go into Executive Session to review confidential financial documents submitted by applicants who applied for Highlands Development Credit Certificates as eligible for hardship consideration. Director Holtaway seconded the motion. The motion was APPROVED 8-0.*

[EXECUTIVE SESSION]

Director Holtaway made a motion to close the Executive Session and resume the HDC Bank Board meeting at 4:43pm. Director Rilee seconded the motion and the motion was approved. The public was informed that the confidential financial documents were discussed in the Executive Session.

CONSIDERATION OF RESOLUTION – *Authorization to acquire Highlands Development Credits under the fourth round of acquisition consideration and to provide notice of a fifth round of acquisition consideration*

Director Rilee made a motion to approve the Resolution and Director Klipstein seconded it.

Ms. Swan introduced the Resolution and began her PowerPoint presentation for the Board. Ms. Swan listed the two properties to be reconsidered as:

- A. Block 19, Lot 110, Sparta Township, Sussex County
- B. Block 73, Lot 5 in Vernon Township, Sussex County
- C. Block 6.25, Lots 70.01 and 70.02 in Sparta Township, Sussex County
- D. Block 40801, Lot 85.01, Rockaway Township, Morris County

Director Rilee left the meeting temporarily at 4:44pm.

Ms. Swan then displayed maps for each property and noted some details of the properties being considered:

Property A:

- The parcel is 115.77 acres
- The HDC Allocation of 63.75 HDCs based on based on residential zoning and Net Yield of 23 lots
- The value of the HDC allocation is \$1,020,000

**HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF FEBRUARY 2, 2012**

- Owner qualified under the hardship criteria
- Conservation deed of easement will be applied (woodland management exemption)

Property B:

- The parcel is 17.59 acres
- The HDC Allocation of 1.75 HDCs based on residential zoning and Special Environmental Zone 25% bonus for preservation priority
- The value of the HDC allocation is \$28,000
- Owner qualified under the hardship criteria
- Conservation deed of easement will be applied (woodland management exemption)

Director Rilee returned back to the meeting at 4:46pm.

Property C:

- The parcel is 5.48 acres
- The HDC Allocation of 7 HDCs based on residential zoning
- The value of the HDC allocation is \$112,000
- Owner qualified under the hardship criteria
- Conservation deed of easement will be applied (woodland management exemption)

Property D:

- The parcel is 24.73 acres
- The HDC Allocation of 27.75 HDCs based on residential zoning and Special Environmental Zone 25% bonus for preservation priority
- The value of the HDC allocation is \$444,000
- Conservation deed of easement will be applied (woodland management exemption)

Ms. Swan then showed a summary of the Initial Purchase Program.

	Number of HDCS	Acreage	HDC Amount	Closing Costs	Closed
First Round (2)	87.00	105.64	\$1,392,000	\$2,500	2
Second Round (4)	54.50	80.15	\$872,000	\$10,000	2
Third Round (7)	261.75	144.25	\$4,188,000	\$5,000	3
Fourth Round (4)	100.25	159.01	\$1,604,000	\$7,500	
Totals (17)	503.25	492.05	\$8,056,000	\$23,000	7

Acting Chair Maglione asked about the two properties that have not closed in the second round. Ms. Swan responded that there are issues with the bank for both properties (same bank for both) and Council Staff continues to work with the property owners.

Director McElroy asked how long the HDC Allocations are good for. Ms. Swan responded that all HDC Allocations are good for three years.

**HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF FEBRUARY 2, 2012**

Director Klipstein asked how many closings are pending. Ms. Swan responded that six closings not including today's fourth round. Mr. Borden added that three closing should happen before the end of February.

Ms. Swan reported that it is recommended that the HDC Bank approve a Fifth Round of funding with the following deadlines:

- April 27, 2012 – deadline for submitting HDC Allocation Application to the Highlands Council if property owner has not already done so.
- June 29, 2012 – deadline for submitting HDC Certificate Application to HDC Bank where property qualifies for Bank consideration.
- August 2, 2012 at 4 pm – HDC Bank meeting to review applications that qualify for Fifth Round consideration.

Board Discussion

Acting Chair Maglione commented that he cannot support the resolution as currently drafted as he has an issue with Property C regarding the location and size of lot and the current funding of the Bank Board. With limited funding he was concerned that this property is not a priority. He commented that perhaps the funds can be used to buy credits for property with a higher resource value.

Director Klipstein asked if Property C ranked higher than other properties when prioritized. Ms. Swan responded that all properties presented today met the eligibility criteria so no one was left out. Director Klipstein asked how many properties applied that did not meet the criteria in the fourth round. Mr. Borden estimated to be about six who may be eligible for fifth round. Mr. Borden also added that there are other applicants who claim financial hardship but have not supplied the documentation to support their claim.

Director Payne asked about the history of the two houses on Property C. Ms. Swan responded that the property was purchased in 2004 and had an existing single family home. A second home was built in 2009 under the threshold of a major Highlands Development (the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more) . Pre-Highlands Act zoning on this property would have allowed for four homes.

There was continued Bank Board discussion on property owners who develop their property after the Highlands Act and ask for relief. Director Rilee commented that Property C could go back into the mix for the Fifth Round and the Bank Board could reconsider it against other applications.

Director Rilee made a motion to amend the Resolution to omit Property C of the Resolution. Director Klipstein seconded it.

Acting Chairman Maglione opened the floor to public comment on the Resolution.

PUBLIC COMMENT ON THE RESOLUTION

Director Payne left the meeting at 5:04pm.

**HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF FEBRUARY 2, 2012**

Matt Smetana, owner of Property C – Mr. Smetana asked that as the Bank Board is not approving his credits today he needed to know what that meant for the future. Ms. Swan responded that Mr. Smetana can re-submit his credits for the next round. Mr. Smetana also wanted to know in three years from now when the credits expire what happens at that point. Ms. Swan responded that the credits can get renewed by the Council. Ms. Swan further stated that the Bank at anytime may decide, depending on the program, round, and eligibility criteria to purchase the credits. Absent that if there are receiving zones established the market can take over and a developer can purchase those credits. Mr. Smetana asked if there are any receiving zones at this point. Ms. Swan responded that there are study areas but no receiving zones at the moment. Mr. Smetana commented that he feels he has proven his case on the value of his property and that the Council lost sight, to some extent, of the purpose of this Bank which is to compensate people who have lost value on their properties. Mr. Smetana does not think the size of the house should come into play.

Director Rilee responded that there are very limited resources for the Bank Board to deal with right now. He noted that the Highlands Council routinely hears the impacts that the Highlands Act has on many landowners. He also stated that because the HDC Bank is not supporting this application now does not mean that there is not a loss. The concern is that hardship does not compare to others. The Bank Board does not know when funding will be available and there is a need to allocate and spend the funding as judiciously as possible. It does not mean that Mr. Smetana has not been harmed here but looking at some of the issues a question could be asked if some of the hardship was self created.

Mr. Smetana responded that his actions were to circumvent further hardship. Ms. Smetana further stated that something needs to be done if the Bank Board is running out of money.

Director Walton responded that he has concerns regarding the Highland Act. Mr. Walton commented that property owners have lost values and have hardships because of the Act. Mr. Walton commented that the information presented to the Bank Board today on Mr. Smetana's property and hardship is not sufficient for the Bank Board to make a decision today.

Mr. Smetana asked how many property owners were denied for hardship. Acting Chair Maglione responded that two property owners were denied and then reconsidered at the HDC Bank Board's October 2011 meeting.

Director McElroy commented that the Bank Board does not have enough basis to judge how severe Mr. Smetana's hardship is compared to other properties and he recommended that he reapply.

Mr. Smetana stated that he believed if an applicant qualified then the Bank Board should approve the application and that he believed there are no environmental benefits to delaying his application.

Acting Chairman Maglione called for a roll call vote. All Directors present voted to approve the amended Resolution. The Resolution was APPROVED 7-0, with one abstention.

Ms. Swan asked the Bank Board to clarify what materials the Board would like in their packets in future. She explained she wants to establish what the Board wants so as to be efficient and prepared. The HDC Allocation letters were sent out the evening before the meeting. Ms. Swan

**HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF FEBRUARY 2, 2012**

asked if the Directors would like that additional information in the packets in future. She explained that the staff should know what materials the Board would like so as to be prepared in sufficient time before meetings.

Acting Chair Maglione responded that the information the Bank Board currently receives is satisfactory and he is satisfied. He acknowledged that the allocation information is not under the Bank Board's jurisdiction. Director Klipstein agreed that the information supplied in the packets is sufficient. Director Rilee commented that he has no issues with the packet as prepared and thinks it is unfair for additional information to be requested at the last minute. Mr. Walton requested that he would like a timeline on the hardships but is otherwise satisfied.. Ms. Swan responded that Directors or Council members may come into the office if they wish to review information.

Acting Chair Maglione opened the meeting to public comments.

PUBLIC COMMENT

David Shope, Lebanon Township – Mr. Shope commented that he was misquoted in the minutes of October 27, 2011 regarding the acceptable parameter for determining HDC values in the model and fair methodology for verifying properties. The minutes should have read 75% discount and not 45%.

Mr. Shope also commented on the way Mr. Smetana was treated because he built a house on his property when Directors and or Council Members have similar conditions on their property. Mr. Shope further discussed the options for property owners who have lost value and that their option is not developers. Mr. Shope wonders who benefits from the high resource values as it is clearly not the landowners.

Helen Heinrich, New Jersey Farm Bureau – Ms. Heinrich asked the Directors to please use the microphones provided as it is very hard to hear the details.

Rick Sparling – property owner in Oak Ridge, NJ - Mr. Sparling commented that he has applied and fulfilled all steps. He is confused about where the paperwork has gone and questions why he has not qualified for hardship. He suggested that it may be based on what he wrote down on his application. Mr. Sparling stated that he has a lot of land and acquisitions but that he cannot sell them to put his children through college. Mr. Sparling asks if he needs to resubmit paperwork every time there is a round.

Ms. Swan responded that to date Mr. Sparling has not met the eligibility criteria under which he has applied. Mr. Sparling asked what is missing and Ms. Swan responded noting the five criteria one of which needs to be met to be eligible under the current round. Mr. Sparling's final comment was to the Board and to State of New Jersey to suggest that water is a commodity and there should be an additional \$10 charge for users. Ms. Swan responded that the Highlands Council consistently supports a water user fee.

Director Walton made a motion to adjourn the meeting and Direction Klipstein seconded it. The meeting was adjourned at 5:31pm.

**HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF FEBRUARY 2, 2012**

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Development Credit Bank Board.

Date: 11/27/12

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant

<u>Vote on the Approval of Minutes of February 2, 2012</u>	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Director Davis					✓	
Director Holtaway						✓
Director Klipstein		✓	✓			
Director McElroy	✓		✓			
Director Payne					✓	
Director Rilee			✓			
Director Romano					✓	
Director Walton			✓			
Acting Chair Maglione			✓			