

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MINUTES OF THE MEETING OF MAY 17, 2012

**PRESENT**

JIM RILEE	)	CHAIRMAN
KURT ALSTEDE	)	COUNCIL MEMBERS
TRACY CARLUCCIO	)	
TIMOTHY P. DOUGHERTY	)	
MICHAEL R. DRESSLER	)	
MICHAEL FRANCIS	)	
ROBERT HOLTAWAY	)	
BRUCE JAMES	)	
JAMES MENGUCCI	)	
CARL RICHKO	)	
MICHAEL SEBETICH	)	
MICHAEL TFANK	)	
JAMES VISIOLI	)	
RICHARD VOHDEN	)	
ROBERT G. WALTON	)	

**CALL TO ORDER**

Chairman Rilee called the 114<sup>th</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:02 pm.

**ROLL CALL**

Roll call was taken. Council Members Dougherty, Dressler, Mengucci and Richko were absent. All other Council Members were present.

**OPEN PUBLIC MEETINGS ACT**

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

**PLEDGE OF ALLEGIANCE** was then recited.

**APPROVAL OF PARTIAL MINUTES OF APRIL 19, 2012**

*Mr. Vohden introduced a motion to approve the minutes and Mr. Walton seconded it. All members present voted to approve. The minutes were APPROVED 11-0.*

**APPROVAL OF FULL MINUTES OF APRIL 19, 2012**

*Mr. Visioli introduced a motion to approve the minutes and Mr. Holtaway seconded it. All members present voted to approve. The minutes were APPROVED 11-0.*

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**CHAIRMAN'S REPORT**

Chairman Rilee reported that he had hoped Council would have the Memorandum of Understanding (MOU) with NJDEP on the agenda for this meeting. Chairman Rilee added that the MOU is in the final stages of review by staff attorneys and he hopes to have it before Council for next month's meeting.

**Audit Evaluation Committee Report**

Ms. Carluccio reported that the Audit Evaluation Committee on January 19, 2012 approved a Request for Proposal (RFP) to provide auditing services. The RFP was mailed to a list of State-certified auditors and posted on the Highlands Council's website. Ms. Carluccio further reported that four applicants submitted proposals and qualifications. The Audit Evaluation Committee met on May 3, 2012 to discuss the qualifications of the applicants, agreed on a recommendation best suited to meet the needs and the Committee prepared a written report on May 6, 2012 and submitted the report to the Audit Committee for consideration.

**Audit Committee Report**

Mr. Walton reported that the Audit Committee met prior to the Council Meeting at 3:00pm reviewed the recommendations from the Audit Evaluation Committee. The Audit Committee concurs with the recommendation to enter a contract with Mercadien P.C. for auditing services for an amount not to exceed \$6,177 annually.

**EXECUTIVE DIRECTOR'S REPORT**

Mr. Feyl gave the following statement to Council:

As we begin this meeting, I was concluding my fourth full day on the job. As a footnote I have spent several days each week here since the last council meeting as I waited to become an official employee of the Highlands Council. Nevertheless it has been a busy week.

Monday I had the pleasure of participating in a meeting of all staff members. After just four days I can confirm what everyone I've spoken with has said about the Highlands staff: They are a professional, energetic, enthusiastic team that is passionate about the sacred trust and moral imperative entrusted to us by the people of the State of New Jersey. They embrace the twin concepts of growth in the right places and protection of the critical Highlands resources. I have been warmly welcomed and I know we share the goal moving the mission of this agency forward.

As your Executive Director I look forward to implementing and supporting the policies adopted by the Council. For example, the Plan Conformance approvals previously adopted by the Council are achieving results at the municipal level, including valuable planning for economic benefits and the appropriate resource protections. Be assured that we are prepared to provide you whatever information you need to shape the policies and implementation of the Highlands Act.

One of the major challenges and opportunities we will face is the upcoming re-examination of the Regional Master Plan, which must be completed by 2014. We will have an opportunity to learn together the basis for existing provisions, to understand what has worked and what needs to work better, and to explore ways of improving upon what currently exists.

Last month you asked us to prepare a report on property owner compensation and the TDR program. We have started that analysis and are currently quantifying the impact on Highlands property owners which we be able to translate into a financial model for just compensation. We plan to have a report to you by the June or July meeting. There is no doubt that the issue of landowner compensation is critical not only to landowners themselves, but also to the State and the Region. The viability of the Highlands Act and the Regional Master Plan require that New Jersey respond effectively to the issue. I believe that coalitions can be built for success, and we will provide recommendations to this end.

*Mr. Richko was present at 4:11pm.*

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Last month you also discussed the viability of agribusiness and agri-tourism in the region. We are reaching out to various agricultural agencies and plan to have a presentation to you within the next several months. Preservation of farmland is a major priority of New Jersey and its residents, but we must also pay more attention to preservation of farming. The Highlands Council has obligated over \$200,000 in agricultural retention planning grants to conforming municipalities. We need to maximize the benefit of these funds for future farming, and so engaging the experts is critically important. How serendipitous it is that this morning's Daily Record featured a lengthy and compelling discussion of agri-tourism. I commend it to your attention. The article features several Highlands farms including Council Member Alsted's. It is available for view through our Communication Office's "clips" which you receive daily.

As we chart the future of the Council I would like to propose to you that, with your approval, we can examine a greater role and purpose for the Council in the areas of resource conservation, appropriated development and redevelopment, consumer education ecotourism, and recreation. We can leverage our technology by expanding our communications and work with county and local agencies to advocate the message of the Highlands.

Thank you for considering approval of my recommendation for the Deputy Director this evening. It will permit us to continue our mission of providing the Council with the information and support it needs while building a sustainable environment and a sustainable economy resulting in a sustainable community.

Contrary to tradition, I have asked Dr. Van Abs to present this afternoon's Petition for Plans Conformance that was traditionally presented by the Executive Director. If you do not object I may, in the future, ask staff members who have been instrumental in each municipality's conformance process to make these presentations so that you have the opportunity to know each other better.

*Mr. Mengucci was present at 4:14pm.*

### **Plan Conformance Update**

Mr. Feyl turned the meeting over to Dr. Van Abs for the Plan Conformance update. Dr. Van Abs gave a brief summary update to the Council on Plan Conformance Petition reviews. He reported that to date 65 Petitions have been submitted (60 Municipalities and 5 Counties). Of these, 57 have been deemed administratively complete and posted to the Highlands Council website (including 2 Counties). Of these, 40 municipal Petitions and 2 county Petitions have been approved: Townships (24) – Allamuchy, Bedminster, Bethlehem, Byram, Chester, Denville, Franklin (Warren), Green, Hardyston, Holland, Lebanon, Lopatcong, Mahwah, Montville, Mount Olive, Oxford, Pohatcong, Rockaway, Sparta, Tewksbury, Washington (Morris), Washington (Warren), and West Milford; Boroughs (13) – Alpha, Bloomingdale, Bloomsbury, Califon, Glen Gardner, Hampton, High Bridge, Kinnelon, Lebanon, Mount Arlington, Ogdensburg, Ringwood and Wharton; Towns (3) – Clinton, Hackettstown and Phillipsburg; and Counties (2) – Passaic and Somerset

Dr. Van Abs then showed a map of the current Designated Highlands Center in the Highlands region which are: the Townships of Byram, Lopatcong, Oxford, Phillipsburg, Pohatcong and Washington (Morris); the Boroughs of Alpha and Wharton; and the Town of Hackettstown.

Dr. Van Abs noted that at today's meeting Harmony and Vernon Townships are seeking approval for their Petitions regarding the Preservation Area. Should the Council approve these Petitions, the Council will have approved 42 of the 60 municipal Petitions (70% of the total Petitions and nearly 75% of the complete Petitions). Dr. Van Abs indicated there are currently 13 Draft Consistency Reports in Municipal Review: Townships of Clinton, Independence, Jefferson, Liberty, Pequannock, Randolph, Roxbury and Union; and the Boroughs of Far Hills, Hopatcong, Morris Plains, Stanhope and Oakland. Two (2) Municipal Responses have been received since the last meeting: Townships of Greenwich and Parsippany-Troy Hills. Dr. Van Abs then showed a map representing the Plan Conformance approvals to date.

Also displayed was a chart that showed the implementation status of approved Petitions to date.

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Implementation Status (Approved Petitions)		Municipalities (New in red)
Total Approved Municipalities	40	
Planning Area Petition Ordinance	14	Alpha, Bethlehem, Byram, Clinton Town, Hackettstown, Hampton, High Bridge, Holland, Lebanon Boro, Lopatcong, Mahwah, Oxford, Phillipsburg, <b>Tewksbury</b>
Master Plan Re-examination Report	10	Bethlehem, Byram, Franklin Twp, Hackettstown, High Bridge, <b>Holland, Lebanon Twp, Mount Olive, Tewksbury, West Milford</b>
Checklist Ordinance	4	Hackettstown, Holland, <b>Mount Olive, Tewksbury</b>
Environmental Resource Inventory	9	Alpha, Byram, Califon, Franklin Twp, Hackettstown, High Bridge, <b>Lebanon Twp, Lopatcong, Phillipsburg</b>
Highlands Master Plan Element	4	Califon, Franklin Twp, High Bridge, <b>Lebanon Twp</b>
Highlands Land Use Ordinance	1	High Bridge (w/ zoning map)

Dr. Van Abs concluded his presentation by showing the average amounts/awards for the Plan Conformance Grant and the Amended Grant Agreement Programs.

**Plan Conformance Grant Program:** Following are the average amounts requested for reimbursement by municipalities that are participating in Plan Conformance grant activities:

<u>Towns</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,839	73
Module 2	\$10,000	\$ 6,963	72
Module 3	\$ 7,500	\$15,558	64
Module 4	\$ 2,000	\$ 3,160	63
Module 5	\$ 2,500	\$ 6,608	56
Module 6	\$ 5,000	\$ 4,440	53
<u>Module 7</u>	<u>\$ 8,000</u>	<u>\$ 7,549</u>	51
Subtotal	\$50,000	\$58,117	
<u>Response Costs</u>	<u>\$ 8,000</u>	<u>\$ 5,942</u>	37
Plan Conformance Cost	\$58,000	\$64,059	

Updated 5/10/2012

Dr. Van Abs noted that Council is very much within the expected range on the various modules. Dr. Van Abs also noted that this keeps Council very close to the anticipated budget as these are \$100,000 grants whereby Council rarely hits the maximum and most municipalities are able to get through this process in a very frugal manner.

**Plan Conformance Amended Grant Agreements:** Following are the average award amounts for implementation plans based on approved Highlands Implementation Plan and Schedules:

<u>Implementation Plans</u>	<u>Average Amount</u>	<u>Number</u>
Highlands Center/Redevelopment Plan	\$22,632	19
Sustainable Economic Development Plan	\$16,389	18
Wastewater Management Plan	\$3,446	37
Stream Protection & Restoration Plan	\$27,762	29
Lake Management Planning	\$29,000	5
Water Use & Conservation Management Plan	\$58,000	15
Habitat Conservation & Management Plan	\$17,000	28
Agriculture Retention/Farm Preservation Plan	\$12,250	18

Updated 5/10/2012

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Dr. Van Abs concluded his Acting Deputy Executive Director's report.

Mr. Walton asked for a listing of those towns or counties that have chosen not to conform in the Preservation or Planning Areas. Mr. Walton asked if it is possible to have that information on a monthly basis. Dr. Van Abs responded that that can be provided but deferred it to Mr. Feyl. Dr. Van Abs did note that of the approved Petitions there are no municipalities at this point that have formally decided not to conform for something that has been approved by Council, however, Dr. Van Abs noted that Council did receive from one municipality, Pohatcong Township, a letter from their Township Attorney saying that they have decided to defer the adoption of the Planning Area petition ordinance for the Planning Area of Pohatcong Township. Dan read an excerpt from Pohatcong Township's Attorney letter dated April 27, 2012:

"...the Mayor and Council felt it would be best to defer a decision to opt into the planning area, with the understanding that the issue can be revisited and reconsidered at any point in the future, as the Township gets a better understanding of the direction that planning for the Highlands region in general is going to take. ..."

**Resolution – Petition for Plan Conformance Harmony Township**

Chairman Rilee introduced the Resolution for the Petition for Plan Conformance by the Township of Harmony. Dr. Van Abs recognized Gene Weber, Harmony Township's Engineer who was present at the meeting. Dr. Van Abs gave a presentation on Harmony Township's Petition for Plan Conformance and began with the public process and consideration.

- Harmony Township adopted a Resolution to Petition for Plan Conformance for the Preservation Area only – Resolution 09-49, dated December 1, 2009
- Petition deemed complete on January 25, 2011
- Draft Consistency Review and Recommendations Report provided to Township on January 6, 2012  
Municipal Response period ended February 6, 2012
- Final Draft Report and the complete Petition posted for public comment on March 28, 2012
- Two Public Comments were received during the public comment period on Harmony's Petition which opened March 28, 2012 and closed April 23, 2012.

*Mr. Dougherty was present at 4:22pm.*

Dr. Van Abs then gave background and significant Highlands statistics on the Township of Harmony.

- Incorporated: 1839
- Population 2010: 2,667
- Land Area: 15,416 acres/24 sq. mi.
- Preserved Lands: 6,527 acres (42%)
- Total Forest: 6,256 acres (41%)
- Existing Community Zone: 502 acres – 3.3%  
(Roads 3.4%)
- Conservation Zone: 8,848 acres – 57.4%
- Highlands Open Water Protection: 4,960 acres  
– 32%
- Critical Wildlife Habitat: 10,799 acres – 70%
- Agricultural Priority Areas: 6,002 acres – 39%
- Planning Area Lands: 7,003 acres – 45%
- Preservation Area Lands: 8,413 acres – 55%
- Protection Zone: 5,542 acres – 35.9%

Dr. Van Abs presented land use ordinance maps of Harmony Township and provided an overview of the RMP consistency analysis as follows:

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Petition Requirements	Consistent with the RMP	Specific Issues
Modules 1-2 Municipal Build-Out Report	X	None
Module 3 Housing Element/Fair Share Plan	X	None
Module 4 Environmental Resource Inventory	X	None
Module 5 Highlands Element	X	None
Module 6 Land Use Ordinance	X	None
Module 7 Petition for Plan Conformance	X	None

Dr. Van Abs reported that the staff recommendation for Harmony Township is to approve with the following conditions:

- Modifications to Plan Conformance Implementation Components Including Master Plan Element and Land Use Ordinance
- Agricultural Retention Plan
- Habitat Conservation & Management Plan
- Sustainable Economic Development Plan
- Stream Corridor Protection & Restoration Plan
- Update Right To Farm Ordinance

*Mr. Dressler was present at 4:26pm.*

Dr. Van Abs recognized Maryjude Haddock-Weiler, Highlands Staff Liaison for Harmony Township.

*Mr. James made a motion on the Resolution for Harmony Township. Mr. Holtaway seconded it.*

Chairman Rilee opened the meeting to the public for comments on this Resolution.

**Public Comments**

**Julia Somers, Executive Director of the New Jersey Highlands Coalition** – Ms. Somers commented that the Coalition supports the Council approving this Petition and hopes Harmony Township will seriously consider Plan Conformance in its Planning Area in the future. Ms. Somers also noted that one of the Coalition’s members, Highlands Tourism Partnership, was in its second year of conducting its “Last Fling Pumpkin Sling” in Harmony Township, a fantastic event that gets a lot of coverage and promotes agriculture in Warren County, particularly Harmony Township.

**Council Comment**

Ms. Carluccio asked if anyone from Harmony Township can address if the Township considered opting into the Planning Area. Gene Weber, Municipal Engineer for Harmony Township, responded that he did talk to committee members and they have not ruled out potential Plan Conformance to the Planning Area in the future and that it is certainly a possibility.

Ms. Carluccio also commented if the WMP would be just for the Preservation Area. Dr. Van Abs commented that the WMP for the full municipality will be the responsibility of the Township. Ms. Carluccio added that one of Council’s requirements is a WMP. Ms. Carluccio asked if it is at the Township’s expense. Dr. Van Abs responded that grant money is available from NJDEP for WMPs and Council has a small allocation. Dr. Van Abs added that he does not think Harmony Township’s

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WMP will be complex due to the low population in the Township. Dr. Van Abs also added that the NJDEP has provided planning grants to Warren County municipalities as Warren County Planning Board decided not to take responsibility for WMP. Ms. Carluccio then asked what the Council's role is. Dr. Van Abs responded that the Council's role with all WMPs, regardless of who develops it, is to do a Consistency Determination to the RMP and advises NJDEP.

*All members present voted on the Resolution. A roll call was taken. The Resolution was APPROVED by a vote of 15-0.*

At this time commemorative photos were taken as Chairman Rilee presented a framed certificate regarding the approval of the Plan Conformance Petition to Gene Weber, Engineer for Harmony Township.

**Resolution – Petition for Plan Conformance Vernon Township**

Chairman Rilee introduced the Resolution for the Petition for Plan Conformance by the Township of Vernon. Dr. Van Abs recognized Mayor Marotta and Jessica Caldwell, Planner for Vernon Township who were present at the meeting. Dr. Van Abs also recognized Christine Danis, Principal Planner and Highlands Council Liaison for Vernon Township. Dr. Van Abs gave a presentation on Vernon Township's Petition for Plan Conformance and began with the public process and consideration.

- Vernon Township adopted a Resolution to Petition for Plan Conformance for the Preservation Area only – Resolution 09-182, dated November 12, 2009.
- Petition deemed complete on March 26, 2010.
- Draft Consistency Review and Recommendations Report provided to Township on February 1, 2012. Municipal Response period ended March 16, 2012.
- Final Draft Report and the complete Petition were posted for public comment on April 13, 2012.
- Two Public Comments were received during the public comment period on Vernon's Petition, which opened April 13, 2012 and closed April 30, 2012.

Dr. Van Abs then gave background and significant Highlands statistics on the Township of Vernon.

- Incorporated: 1798
- Population 2010: 24,825
- Land Area: 44,769 acres/70 sq. mi.
- Preserved Lands: 24,254 acres (54%)
- Total Forest: 30,303 acres (68%)
- Planning Area Lands: 15,464 acres – 35%
- Preservation Area Lands: 29,305 acres – 65%
- Protection Zone: 34,869 acres – 77.9%
- Existing Community Zone: 4,129 acres – 9.2% (Roads 2.6%)
- Conservation Zone: 4,586 acres – 10.3%
- Highlands Open Water Protection: 27,411 acres – 61%
- Critical Wildlife Habitat: 36,695 acres – 82%
- Agricultural Priority Areas: 2,690 acres – 6%

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Dr. Van Abs presented land use ordinance maps of Vernon Township and provided an overview of the RMP consistency analysis as follows:

Petition Requirements	Consistent with the RMP	Specific Issues
Modules 1-2 Municipal Build-Out Report	X	None
Module 3 Housing Element/Fair Share Plan	X	None
Module 4 Environmental Resource Inventory	X	None
Module 5 Highlands Element	X	None
Module 6 Land Use Ordinance	X	None
Module 7 Petition for Plan Conformance	X	None

Dr. Van Abs noted to Council that Vernon Township’s Build-Out Report process was complicated by database problems and commended the Township for its efforts in collaboration with Highlands Staff on that work.

Dr. Van Abs reported that the staff recommendation for Vernon Township is to approve with the following conditions:

- Modifications to Plan Conformance Implementation Components Including Master Plan Element and Land Use Ordinance
- Farmland Preservation/Agricultural Retention Plan
- Habitat Conservation & Management Plan
- Sustainable Economic Development Plan
- Stream Corridor Protection & Restoration Plan
- Update Right To Farm Ordinance

*Mr. Richko made a motion to approve the Resolution and Mr. Vohden seconded it.*

Chairman Rilee opened the meeting to the public for comments on this Resolution.

**Public Comments**

**Julia Somers, Executive Director of the New Jersey Highlands Coalition** – Ms. Somers commented that the Coalition supports the Council approving this Petition and encourages Vernon Township to consider Plan Conformance in its Planning Area in the future. Ms. Somers noted that Vernon Township has a significant number of water bodies and the lake communities surrounding those water bodies are subject to goals and objectives of the RMP. Ms. Somers also noted that absorbing this information is a tremendous task for Council and Council should pay close attention to the lake communities and the rules in the RMP.

**Council Comments**

Ms. Carluccio asked if Vernon Township considered the Planning Area. Ms. Caldwell, Vernon Township Planner, responded that the Planning Area was discussed at length, but noted that a lot of the Planning Area was already developed so the Township was concerned about adding a lot of regulations to already developed areas. Ms. Caldwell concluded that at this point it did not make sense to the municipality. Ms. Caldwell added that the Township is environmentally sensitive and already considers projects closely to ensure appropriate protections.



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Mayor Marotta commented that part of the reason why it took Vernon Township from 2009 to the present to get to where we are is because the Township of Vernon in 2010 changed their entire form of government. Mayor Marotta assured Council that the Township was a leader in Sussex County adopting all kinds of zoning regulations as early as the late 1970s-1980s to preserve what you now see as Vernon Township and preventing development under critical constraints. Mayor Marotta added that the new form of government will look very closely at the Planning Area, but as Ms. Caldwell stated most of that area is already developed and under zoning ordinances that are not very different from the intent of this Council. Mr. Marotta thanks the Council for their efforts and looks forward to working with the Council to make this a success for all of us.

*All members present voted on the Resolution. A roll call was taken. The Resolution was APPROVED by a vote of 15-0.*

At this time commemorative photos were taken as Chairman Rilee presented a framed certificate regarding the approval of the Plan Conformance Petition to Mayor Marotta for Vernon Township.

### **Special Presentation**

Mr. Feyl announced that it is his distinct pleasure to turn the meeting over to Highlands Council Principal Planner Chris Danis for a special presentation to a special person who has truly made a difference in the quality of life for us all. Mr. Feyl added that Dr. Van Abs is one of the instrumental members informing and creating the Highlands and a preeminent expert on water in the State of New Jersey. Mr. Feyl appreciated the knowledge Dr. Van Abs shared with him these past weeks.

Ms. Danis gave her presentation in honor of Dr. Van Abs:

“Dan was at the first Highlands Council meeting on December 16, 2004 and here today for the 114 meeting of the Highlands Council. Dan’s first day as the Senior Director for Planning and Science was August 6, 2007, prior to that he served as a key consultant for the RMP and the Technical Reports. Since 2007, more than 65 Highlands Council meetings have directly benefited from his support as staff.

More than that Dan’s professional career represents a lifelong commitment to protecting the state’s water resources and especially the waters of the Highlands Region and the 5 million stakeholders that rely on water from the Highlands Region.

Dan has worn many hats, as I mentioned he was a technical and policy advisor for the RMP and more than that a key proponent of the Highlands Act; since 2007 the Sr. Director of Planning and Science, Acting Executive Director and currently the Acting Deputy Executive Director.

During his tenure we have benefitted as a team and accomplished what most thought was impossible:

- 57 out of 60 Municipal Plan Conformance Petitions have been reviewed
- 42 Petitions have been noticed for Public Hearing; and
- 40 Petitions have been approved with 2 pending today
- The first Petition was approved on September 23, 2010 for Byram Twp. and it included approval of the first Highlands Center and was the recipient of the 2011 NJ Future Smart Growth Award
- The 60 Petitions represent 64% of the Highlands Region or over 550,000 acres working with the Highlands Council in support of the RMP and the protection of water resources with enhanced science and comprehensive planning

As staff we know that this work has been supported by too many to count color coded Excel files and tracking sheets. Let’s not forget the 32 wastewater management plans that are being drafted with Dan’s guidance with 21 first drafts completed and 3 noticed in the NJ Register. For those of you familiar with the state and its WMP, another impossible feat accomplished. We are not sure if Dan’s Council meeting attendance will continue but we do know his imprint on the Highlands Region will last forever. Dan we have all learned from you why this water resource is so important and more than that how to actually go about protecting it. We promise to continue to reflect your passion and commitment to the Highlands Region and the success of the RMP. It is good to know you are a phone call away.”

At this time photographs were taken with Dr. Van Abs, Highlands Staff and Council Members.

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Chairman Rilee thanked Dr. Van Abs for his guidance over the past months and said it had been a pleasure to work with him.

**Resolution – Contract for Auditing Services**

Chairman Rilee introduced the Resolution. Mr. Walton reported that the Audit Committee reviewed the recommendation of the Audit Evaluation Committee and the Audit Committee recommends that the Highlands Council authorize the Executive Director to enter a contract with Mercadien P.C. for auditing services for an amount not to exceed \$6,177 annually.

*Mr. Vobden made a motion to approve the Resolution and Mr. Dougherty seconded it.*

**Public Comments**

**David Shope, owns property in Lebanon Township** – Mr. Shope asked how many responses Council received. Chairman Rilee responded that four responses were received. Mr. Shope mentioned that New Jersey Water Supply Authority uses Mercadien P.C.

There was no Council Comment.

*All members present voted on the Resolution. A roll call was taken. The Resolution was APPROVED by a vote of 15-0.*

**Council Discussion – Bylaw Amendments submitted by Council Member Visioli**

Chairman Rilee commented that Council Member Visioli submitted a sheet regarding amendments to the Council's Bylaws for Council to discuss and consider, as were brought up at last month's meeting by Mr. Visioli. Chairman Rilee commented that he felt Mr. Visioli's amendments are a knee-jerk reaction to trying to take away the Executive Director's ability to perform his duties, but agreed to allow discussion at today's meeting. Chairman Rilee opened to the Council for discussion.

Mr. Holtaway commented that every once in a while Bylaws should be reviewed as there have been changes over the years since they were formulated. Mr. Holtaway commented that setting up a committee to go through them to see if anything should be changed is advisable at this time. Mr. Holtaway also questioned how Council will handle their legal counsel. Mr. Holtaway recommended that a committee be set up to go through the Bylaws and advise Council on any recommendations, concerns and/or issues. Mr. Holtaway commented that he would be willing to serve on this committee.

Mr. Visioli commented that after listening to past and present Council Members over the past year or so, he took it upon himself to prepare this sheet for Council's review and discussion. Mr. Visioli stated that the intent for this discussion is not to take away the powers of the Executive Director but to give the Council (from what he has heard in the past) more authority on what Council would like to do. Mr. Visioli said his intent is to promote thought.

Mr. Dressler commented that as the only attorney on this Council at the present time that he would like to serve on this committee. Chairman Rilee responded that he will take that under consideration.

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Mr. James commented that due to the sensitivity of this issue he hopes the committee is bipartisan. Chairman Rilee agreed with Mr. James.

Mr. Dougherty commented that he agrees with reviewing the Bylaws and to make changes that could benefit the Council. Mr. Dougherty would support a committee for the Bylaws and is willing to serve on this committee. Chairman Rilee responded that there may need to be some clarifications.

Mr. Richko asked if this discussion on the Bylaws would change the outcome of the Resolution on Council's agenda for the Deputy Executive Director's position. Chairman Rilee responded that revised Bylaws would only affect the next Deputy Executive Director. Mr. Richko commented that he agrees with having a Chief Counsel as we have had in the past.

Ms. Carluccio commented on the resolution regarding the Executive Director's authority, which was deferred. Ms. Carluccio asked the status of that resolution. Chairman Rilee responded that it will be on the next month's agenda.

Mr. Vohden commented that he has heard 15-16 hours of public comments on how great everything is working so does not see why anything needs to change, unless there have been any abuses, he sees no reason why the Bylaws need to be changed. Mr. Vohden also added that if the Council needs to review all new applicants for hire that leads to an assumption that people are hired that do not meet the standards. Mr. Vohden concluded by saying that this is the first time he has met staff and previously, he was denied the opportunity to speak to staff. Mr. Vohden would like to personally talk to staff.

Mr. Francis commented that it is good to review the Bylaws and it also would behoove any organization to make sure Council stays with a winning strategy administratively. Mr. Francis brags about our staff all the time. Mr. Francis concluded that Council should proceed carefully and changing for the sake of approving is good change. Mr. Vohden responded that he does not know the staff and did not mean to imply anything negative about the staff. Mr. Vohden also commented that staff gives training sessions for plan conformance and he would like to attend them.

Mr. Feyl commented that one of his goals is to have presentations made to the Council by our staff and other experts so everyone understands what our charge is and some of the details and/or subtleties Council may be missing.

Mr. Alstede commented that there are two specific functions. Mr. Alstede feels it is appropriate to review the Bylaws as it is a blueprint on the management of the office and has no objection to reviewing the document. Mr. Alstede commented that parallel to that is the delegation of authority to the Executive Director that are tasks assigned to Council by the Act, which is a much different function. Mr. Alstede never found fault in the administration of the office, but continues to suggest Council take a deep look into the authority of the Executive Director.

Chairman Rilee announced that he will put together a Bylaws Committee to review and make a recommendation to the Council on this topic.

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**Council Discussion – Division of Law Representation**

Chairman Rilee reported that Council received an outline on Division of Law Representation by Dr. Van Abs. Dr. Van Abs responded that this is not something that has been cleared by the Division of Law but is how staff understands the Division of Law works.

Chairman Rilee pointed out that the Division of Law has been actively involved in the Council's office and a District Attorney General (DAG) member attended the Council Meetings early on. Chairman Rilee does not see a major shift. Chairman Rilee felt that Council should give this a little bit more time so the Executive Director can get up to speed.

There was further discussion amongst the Council on the role of the Division of Law, the Division's Support of the Highlands Council and the Highlands Council Legal Staff currently in place. Mr. Dressler commented that the Council's independence is the intent of the Act and that Council will do the exact opposite if Council chooses not to have our own general counsel. Ms. Carluccio questioned how much time the DAG's office currently spends on Highlands issues. Mr. Jablonski responded that currently he is just attending Council Meetings. Mr. Jablonski added that the DAG's office is the State's law firm and the routine practice is to represent the state's "in, but not of" agencies and that there is nothing unusual for him to sit here today. Ms. Carlucci commented that the DAG's office has represented the Highlands in court.

There was further discussion about how Mr. Borden's role as the Deputy Executive Director and Chief Council was handled and how the staff has handled past and present legal matters. Dr. Van Abs commented that there are two questions: 1) Who do you want to be your face at Council meetings and is that someone from the staff or is it the DAG. 2) What is the relationship between the Council and the Division of Law and that is embodied in law. Dr. Van Abs added that the Division of Law is our law firm and Council supports what they do.

Mr. Feyl commented that we do have a department of law on staff. Mr. Feyl commented that all draft briefs are prepared by internal staff except the court appearance. Mr. Feyl feels comfortable having the DAG office as our backup.

Mr. James commented that he does not feel Council is losing our independence by using the DAG's office. Mr. Francis felt comfortable having the DAG's office representing Council. Ms. Carluccio commented on the importance of Council's independence.

Chairman Rilee commented that Council can go outside to hire legal representative, but does not have to. Chairman Rilee is comfortable with the current situation.

Mr. Alstede asked what the hourly rate is for the DAG's office to work with Council. Mr. Jablonski responded that it is \$100 per hour. Mr. Alstede also commented that we have a capable staff member who has a tremendous amount of history.

Chairman Rilee asked if Council is currently in agreement to have the DAG's office attend Council meetings. Mr. Richko responded that a staff member should be present at Council meetings. Chairman Rilee commented that this should be a recommendation by the Executive Director, but asked for an informal vote of the members if they want staff or DAG to attend Council meetings.

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**Resolution – Position of the Deputy Executive Director of the Highlands Council**

Chairman Rilee introduced the Resolution. Mr. Feyl reported that he sent out a memo to the Personnel Committee and his recommendation for the position of Deputy Executive Director of the Highlands Council is Margaret Nordstrom with an annual salary of \$92,000. Chairman Rilee reported that the Personnel Committee supports the recommendation of Mr. Feyl to the Council.

*Mr. Vobden made a motion to approve the Resolution and Mr. James seconded it.*

There was no public comment.

**Council Comments**

Mr. Dougherty commented that he has known Ms. Nordstrom for a number of years and described her as being very confident, approachable, thoughtful and calculating. Mr. Dougherty commented that he supports this recommendation.

Mr. Visioli commented that he found Ms. Nordstrom to be tenacious and people oriented and will support her.

Ms. Carluccio questions Ms. Nordstrom's opposition to the Highlands task force and believes she may have been an active member and involved in a lawsuit.

Mr. Francis spoke with Ms. Nordstrom and was impressed with their conversation.

Mr. Richko commented that he would have felt much more comfortable if Ms. Nordstrom's name was not in the newspaper. Mr. Richko commented that the process stinks and that the Morris County Freeholders are a farm team for the Highlands Council. Mr. Richko commented that he is impressed with Ms. Nordstrom's resume, but is not optimistic because he feels these acts are coming from the Governor's office and plans to vote no.

Mr. Tfrank asked Dr. Van Abs if he is satisfied with the process. Dr. Van Abs felt that as a staff member he should not respond.

Ms. Carluccio felt the Council is becoming politicized and is disappointed.

Chairman Rilee commented that it may not have been politicized before but it may have been about agendas.

*All members present voted on the Resolution. A roll call was taken. The Resolution was APPROVED by a vote of 11-4.*

Chairman Rilee introduced Ms. Nordstrom.

Ms. Nordstrom commented that she knows that some of the Council Members are unhappy about her being here. Ms. Nordstrom commented this is her dream job and she will do her best to earn Council's confidence and trust and cannot wait to get to work.

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Chairman Rilee opened the meeting for public comments.

**Public Comments**

**Julia Somers, Executive Director of the New Jersey Highlands Coalition** – Ms. Somers wanted to take this opportunity to thank Dr. Van Abs. Ms. Somers added that Dr. Van Abs has been a marvelous leader on water issues in New Jersey and deserves incredible thanks and will be very much missed. Ms. Somers also commented that one of the candidates interviewed, John Thonet, was unable to attend the meeting but wanted her to pass on to Council that he enjoyed his interview with Mr. Feyl and Dr. Van Abs and is open to helping in any way he can in the future.

*Messrs. Dressler and Dougherty temporarily left the meeting at 5:53pm.*

**Monique Purcell, Department of Agriculture** – Ms. Purcell wanted to thank Dr. Van Abs for his insight and balanced approach, which has been very much appreciated by the community and wishes him all the best in the future and thanks him for all of his work. Ms. Purcell also commented on the Executive Director's suggestion of the agriculture viability project and added that the Department of Agriculture would be very much interested in working on that project with the Council. Mr. Feyl responded that Council is counting on that. Ms. Purcell commented on grants that were awarded in the past, it would be helpful for Council to have an update on those grants. Ms. Purcell also suggested that it would be helpful if the background and significant Highlands statistics slides for the municipality that are included in Plan Conformance presentations before the Council could also be provided to the public during the comment period.

*Mr. Dressler returned to the meeting at 5:55pm*  
*Mr. Walton left the meeting temporarily at 5:56pm.*

**Helen Heinrich, New Jersey Farm Bureau** – Ms. Heinrich commented that the Bureau will miss Dr. Van Abs very much and his scientific integrity has been much appreciated. Ms. Heinrich commented that it is great news about the agriculture viability project. Ms. Heinrich commented that the New Jersey Farm Bureau would be happy to work with Council on that. Ms. Heinrich added she would be happy to organize a tour of some of the different kinds of agricultural operations that are thriving in the Highlands. Ms. Heinrich also agrees with Ms. Purcell regarding the agriculture grants and Council being updated on their status.

*Mr. Walton returned to the meeting at 5:58pm.*

**David Shope, owns property in Lebanon Township** – Mr. Shope commented that the New Jersey Water Supply Authority is also “in, but not of” the NJDEP and represented by the DAG's office for at least ten years and have no problem. Mr. Shope commented that he would like to be part of the discussion regarding agriculture viability.

*Mr. Dougherty returned to the meeting at 5:59pm.*

**David Peifer, Association of New Jersey Environmental Commission** – Mr. Peifer thanked Dan for his past and present services to the State of New Jersey. Mr. Peifer also complimented the staff for enhancing Highlands interactive map. Mr. Peifer noted that there are some new features on there and hopes Council would explore that as it is a credit to the Council from a national perspective how good

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that planning assistance to the public is. Mr. Feyl responded that staff member Mr. Keren is responsible for this process and was present at the meeting. At this time Mr. Keren received a round of applause from the public and Council for his efforts.

*Mr. James left the meeting at 6:02pm.*

**Jerry Kern, property owner in Pohatcong Township** –Mr. Kern congratulated the new Deputy Executive Director and hopes she brings some much needed fairness to the Council for landowner property rights and compensation. Mr. Kern also commented that he finds it strange that after coming to all of these meetings and hearing the reports of past Executive Directors there is never any talk about towns who decide not to opt into the Planning Areas and it is important for the Council to know why towns are not opting into the Planning Area. Mr. Kern feels there should be more fairness.

**Hank Klumpp, owns property in Tewksbury Township** – Mr. Klumpp commented that Ms. Somers claims he has things wrong with his property values being stolen by the Highlands Act and states that the Highlands values were not stolen stating how one of his neighbors received \$40,000 per acre for the land. Mr. Klumpp asked if he should sell his property for less than what it is worth. Mr. Klumpp commented that Ms. Somers shows her true colors of an environmental lobbyist pushing our society toward eco-socialism where property is no longer private and where payment is not required for what is taken. Mr. Klumpp feels he deserves to receive the full real estate value of his land. Mr. Klumpp would also like to be part of the discussion on agriculture viability. Mr. Klumpp submitted his public comments for the record.

**Jerry Kern, property owner in Pohatcong Township** – Mr. Kerns commented on what Dr. Van Abs stated regarding Pohatcong deciding not to move on the matter of opting in to the Planning Area. Mr. Kerns added that what really happened at the meeting was that someone made a motion to opt into the Planning Area and no one seconded it.

### Council Comments

Ms. Carluccio commented that there has been a proposal to increase safe yield the Wanaque Reservoir from 173mg to 190mg per day. Ms. Carluccio asked if staff can look at this and weigh-in to NJDEP about how this may impact the streams and water deficits in the Highlands.

Mr. Feyl commented that Council can certainly give a brief overview on it.

Mr. Dougherty commented on the Tennessee Gas Pipeline reports/status that he requested at the last meeting. Dr. Van Abs responded that the status is on page 10 of the Executive Director's report. Mr. Dougherty commented that he would like the Executive Director to be up to speed on this project.

Mr. Dressler commented on his request for Council to have a meeting on landowner compensation. Chairman Rilee responded that the discussion will be incorporated into a meeting.

*Mr. Walton left the meeting at 6:18pm.*

*Mr. Francis made a motion to adjourn the meeting and Mr. Vohden seconded. The meeting was adjourned at 6:18pm.*

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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: 6/22/12

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 Mengucci						✓
Councilmember Richko			✓			
Councilmember Sebétich			✓			
Councilmember T'fank						✓
Councilmember Visioli			✓			
Councilmember Vohden			✓			
Councilmember Walton			✓			
Chairman Rilee			✓			