

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF AUGUST 21, 2014

**PRESENT**

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

**ABSENT**

MICHAEL TFANK )

**CALL TO ORDER** 133<sup>rd</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:02pm.

**ROLL CALL**

Roll call was taken. Council Member Dougherty and Tfank were absent. All other members were present. *The following staff members were present: Margaret Nordstrom, Andrew Davis, Chris Danis, Kim Ball Kaiser, James Humphries, Maryjude Haddock-Weiler, Corey Piasecki, Carole Dicton, Tom Tagliareni. Also present were Peter Simon, Governor's Authorities Unit, and Buck Swaney, Logan Simpson Design.*

**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. 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 HIGHLANDS COUNCIL MINUTES OF JULY 17, 2014**

Chairman Rilee asked for a motion on the Minutes of July 17, 2014.

*Mr. Francis introduced a motion to approve the Minutes of July 17, 2014. Mr. Visioli seconded it.*

*All members present voted to approve the Minutes of July 17, 2014. The minutes were APPROVED 12-0 (Note: Chairman Rilee approved the portion of the minutes when he was present).*

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**CHAIRMAN'S REPORT**

There was no Chairman's report.

**COUNCIL MEMBER REPORTS**

Member Dressler reported on a project being considered in Tuxedo, New York for a casino. Member Dressler noted that the Council should be aware of this project, and review some newspaper articles Ms. Nordstrom had previously provided to him.

*Member Dougherty was present at 4:04pm.*

Chairman Rilee requested Acting Executive Director Nordstrom to forward these articles to full Council for their knowledge.

**ACTING EXECUTIVE DIRECTOR'S REPORT**

Ms. Nordstrom gave the Acting Executive Director's report, and announced that in Plan Conformance Implementation, Alexandria Township (Hunterdon County) adopted a Checklist Ordinance; Bethlehem Township (Hunterdon County) adopted a Master Plan Highlands Element; Lebanon Township (Hunterdon County) adopted a Highlands Area Land Use Ordinance and Exemption Determination Authorization Ordinance; and Hopatcong Borough (Sussex County) adopted a Master Plan Reexamination Report and Resolution.

Ms. Nordstrom also announced that Byram Township received \$5,000 for an RMP Stormwater Application Pilot Study Agreement (pilot project testing the new stormwater management app) and that the Town of Phillipsburg received \$23,500 for a Plan Conformance Historic Preservation Planning Element Grant.

Ms. Nordstrom also noted that High Bridge (Hunterdon County) and West Milford (Passaic County) issued Exemption Determinations; and under the TDR program, four (4) allocation determinations were issued.

**Fenimore Landfill Update**

Ms. Nordstrom referred Council to a newspaper article they had received in their packets and provided a summary of the most recent status of matters at the landfill based on information that was provided to her from DEP.

Ms. Nordstrom also reported that after consultation with NJDEP, Roxbury Township and Morris County Soil Conservation about the concerns of streams running beneath the Fenimore landfill, that the consensus of all three entities was that although there are streams on the Fenimore property, no streams run under the disturbed area. Ms. Nordstrom asked if anyone would like to see the report from Maser Consulting concerning the stream issue and then concluded her report. A copy of the Maser report will be distributed to all Council members as requested by Vice-Chair Alstede.

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**COMMITTEE REPORTS**

**Personnel Committee**

Chairman Rilee announced that the Committee is in the process of scheduling interviews for the Executive Director position.

**Budget & Finance Committee**

**Resolution – Approval Of A Transfer Of Development Rights Receiving Zone Feasibility Grant, Borough of Bergenfield**

Member Holtaway reported that Council received another request for a TDR study from Bergenfield Borough (Bergen County). Bergenfield is going through changes and redoing their master plan to strengthen their downtown area.

Ms. Nordstrom introduced staff member James Humphries who gave a presentation on Bergenfield. The presentation may be found on the Highlands Council's website at the following location:

[http://www.highlands.state.nj.us/njhighlands/about/calend/2014\\_meetings/aug21/aug\\_2014\\_tdr\\_bergenfield.pdf](http://www.highlands.state.nj.us/njhighlands/about/calend/2014_meetings/aug21/aug_2014_tdr_bergenfield.pdf)

*Mr. Holtaway made a motion on the Resolution. Mr. Visioli seconded it.*

**Council Comment**

Member Visioli asked about the overall timing of the grant. Mr. Humphries responded that Phase 1 is between 1-2 months and the overall grant to be completed is between 6-9 months.

**Public Comment**

**Erica Van Auken, New Jersey Highlands Coalition** – Ms. Van Auken commented that the Highlands Coalition supports this resolution. Ms. Van Auken added that Bergenfield looks like the model town for this program and hopes it is successful.

**David Shope, owns property in Lebanon Township, NJ** – Mr. Shope commented that Bergenfield is a built-out town so why is Council investing in a town which is fully developed. Mr. Shope is opposed to this resolution.

**David Peifer, Association of New Jersey Environmental Commission** – Mr. Peifer strongly supports this TDR grant award for Bergenfield as a potential to intensifying their urban development.

*All members present voted to approve the resolution. The resolution was APPROVED 13-0.*

**Highlands Development Credit Bank Committee**

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Member Walton reported that the Committee is working to establish a new Open Space Matching Grant Program using the PSE&G mitigation funding which would allow government (municipalities and counties) and non-profit agencies to apply for up to 50% matching grant funds towards the preservation of property in the Highlands region. In addition the Committee is seeking to establish new parameters for the purchase of Highlands Development Credits, by closing out the initial purchase program and eliminating the old hardship based program and using standards of both the PSE&G mitigation funding and the Regional Master Plan. The priority ranking criteria being considered are: environmental zones, proximately to power lines, and use of Dual Appraisal. Member Walton added that the Committee agreed to discuss this program at Council's September meeting.

**Plan Conformance Committee**

Member Richko reported that the Committee met prior to Council meeting to discuss Hardyston Township and staff will provide a PowerPoint presentation on the proposed use of the Checklist Ordinance approach for Hardyston Township. Ms. Nordstrom presented a presentation that can be found on the Council's website at the following address:

[http://www.highlands.state.nj.us/njhighlands/about/calend/2014\\_meetings/aug21/aug\\_2014\\_hardyston.pdf](http://www.highlands.state.nj.us/njhighlands/about/calend/2014_meetings/aug21/aug_2014_hardyston.pdf)

Member Richko reported that the Committee agreed with the recommendation by staff, and he indicated that, per the process discussed by the Council last month, the Council will not be asked to vote on this at this time, but rather at the next meeting so Council Members may have additional time to consider the issues in connection with this matter.

**Council Comment**

Member Carluccio requested that all the levels of resources be provided to the Council on the towns recommended for the Checklist Ordinance approach.

Member Vohden asked if there is any information that is not on-line for members to look at. Ms. Danis responded that everything is on-line for Council to review.

**Regional Master Plan Update Committee**

Member Alstede reported that an RMP Update Committee meeting was held on July 9, 2014 and noted that the committee continues to address elements that will enable Council to carry out the Regional Master Plan update. Member Alstede reported that this process is a "tripod" approach: 1) Web Portal to collect all public input and data to consider; 2) the Monitoring Program to measure certain elements to identify; and 3) Fiscal Impact Assessment. Mr. Alstede turned the meeting over to staff member Corey Piasecki.

Mr. Piasecki gave a presentation related to the Highlands RMP Monitoring Program Fiscal Impact Assessment Scope of Work, one of the three components of this process. This presentation may be reviewed on the Council's website at the following address:

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[http://www.highlands.state.nj.us/njhighlands/about/calend/2014\\_meetings/aug21/aug\\_2014\\_rmp\\_fiscal\\_scope.pdf](http://www.highlands.state.nj.us/njhighlands/about/calend/2014_meetings/aug21/aug_2014_rmp_fiscal_scope.pdf)

**Council Comments**

Member Carluccio asked how the projected cash flow timetable will be used. Mr. Piasecki responded that it is required by the Act and it would be used to inform the state. Ms. Nordstrom responded that it has budgetary implications for the Highlands Council.

Member Carluccio asked about the septic maintenance requirements indicator in the RMP Update Committee memo. Mr. Alstede replied that we are looking at different elements of the Act that could impact the region and homeowners, and septic maintenance could be one of those indicators. Chairman Rilee added that it was an item to look at and identify.

*Member Walton left the meeting temporarily at 4:36pm.*

Mr. Piasecki turned the meeting over to staff member Carole Anne Dicton, Manager of Communications, and Mr. Buck Swaney, consultant with Logan Simpson Design related to the RMP Web Portal. Ms. Dicton provided a presentation on the RMP Web Portal and indicated that once the portal is live, commenters will be able to submit comments from the Highlands Council home page or from the RMP Monitoring Program page.

*Member Walton returned to the meeting at 4:38pm.*

Mr. Swaney provided a synopsis of his professional background in public comment analysis, and then proceeded to demonstrate the current configuration of a commenting portal that he has created in consultation with Highlands staff.

Chairman Rilee asked if there would be an indication at the beginning of the comment page that informed a commenter that they will be able to submit more than one comment. Mr. Swaney indicated that Ms. Dicton is preparing language which will be placed at the top of the entry page to inform the commenter of this concern.

Member Carluccio asked if the public would be able to see all the comments. Mr. Piasecki stated that we do not anticipate that the comments would become public until all comments were reviewed and responded to.

Member Carluccio asked if there could be a little more explanation on what the topic areas mean or a glossary. Chairman Rilee asked if there could be a pop-up to explain the topic areas. Mr. Swaney responded that he would work to provide this feature if it is in the architecture of the system.

Member Alstede said the next committee meeting would be in September. Member Alstede commended the staff and consultant on the work they have done in organizing this process.

Chairman Rilee opened the meeting for general public comments. Chairman Rilee noted that comments regarding Fenimore should be held at this time, and Vice-Chair Alstede will take over the meeting later to take comments on that matter.

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**Public Comment**

**Julia Somers, New Jersey Highlands Coalition** – Ms. Somers complimented Council on the acquisition related to the West Milford property. Ms. Somers submitted for the record economic data materials for the Council's and the consultant's review.

**Hank Klumpp, owns property in the Highlands Preservation Area** – Mr. Klumpp commented on property values affected by the Act. Mr. Klumpp submitted his comments for the record.

**Erica Van Auken, New Jersey Highlands Coalition** – Ms. Van Auken asked if there is an option to upload documents on the Comment Web Portal.

**Carl Panetta, Ledgewood, NJ** – Mr. Panetta commented on the Hercules site and noted that Council may see this coming.

**Deborah Post, property owner in Chester Township** – Ms. Post commented on the Council's stakeholder process.

Chairman Rilee commented that Ms. Nordstrom is working on Ms. Post's concerns on this matter.

**Joady Anderson, owns 74 acres in Lebanon Township** – Ms. Anderson commented on the loss of value on her property.

**Patrick Moffitt, Peapack, NJ** – Mr. Moffitt made comments related to a nitrate model. Mr. Moffitt submitted his comments for the record.

**David Shope, owns property in Lebanon Township, NJ** – Mr. Shope commented on the process of the public comment period, on the use of science and referred to Member Dressler's interest regarding a landowner compensation committee.

Member Dressler responded that the HDC Bank Committee has agreed to start discussions on the landowner compensation at the Committee's September 4<sup>th</sup> meeting.

**Stephen Shaw, Mountain Lakes, former Mayor and Director of the New Jersey Builder's Association** – Mr. Shaw requests that Council suspend the use of the Checklist Ordinance approach. Mr. Shaw also commented on the RMP Update process and hopes the process is open and transparent.

**Jerry Kern, Pohatcong Township** – Mr. Kern hopes Council keeps an open mind when reviewing this process.

Chairman Rilee turned the meeting over the Chief Counsel Davis. Mr. Davis then read the following resolution into the record:

**WHEREAS**, the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., permits the holding of closed sessions by public bodies in certain circumstances, and the Council is of the opinion that those circumstances presently exist; and

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- (a) litigation in connection with the matter of Danielson v. Chester Township Through Its Police Department, et. al., U.S. District Court for the District of New Jersey, Civil Action No. 2:13-cv-05427-JLL, for which advice from counsel subject to the attorney-client privilege is required; and
- (b) pending and/or potential litigation in connection with the Fenimore Landfill, for which advice from counsel subject to the attorney-client privilege is required.

NOW, THEREFORE, BE IT RESOLVED, that the Council may enter into closed session at its public meeting of August 21, 2014, for these purposes. It is anticipated at this time that the nature of the matters discussed in closed session will be made public upon completion or resolution of the issues to be discussed, except any matter protected by the attorney client privilege will not be disclosed.

*Chairman Rilee requested a motion.*

*Mr. Vohden made a motion and Mr. Holtaway seconded it. All members were in favor.*

Chief Counsel Davis announced that Council will go into Executive Session to discuss the two issues noted in the resolution, and that the Council will come back into public session after the executive session and may take action at that time. It was also noted that Vice-Chair Alstede will head the meeting after Executive Session and take public comments related to Fenimore landfill at that time.

Chairman Rilee commented that he will go into Executive Session for the first issue only.

*Chairman Rilee called for a five minutes break at 5:19pm after which time an Executive Session will be held.*

*[EXECUTIVE SESSION]*

*Vice-Chair Alstede closed the Executive Session and resumed the New Jersey Highlands Water Protection and Planning Council meeting at 6:07pm.*

*Chairman Rilee and Member James were no longer present.*

**Resolution – Enter Into and Execute A Written Settlement Agreement**

Chief Counsel Davis announced that one of the matters discussed in Executive Session was the potential settlement related to the litigation on the matter of Danielson v. Township of Chester and New Jersey Highlands Water Protection and Planning Council. There was a discussion and at this point in time, there is a resolution before Council that will authorize settling this litigation in the amount of \$12,500. Mr. Davis then indicated that if the Vice-Chair wanted to entertain a potential settlement of the matter, he could call for a vote on a resolution authorizing that settlement.

*Mr. Holtaway made a motion. Mr. Visioli seconded it.*

There were no public or Council comments.

*All members present voted to approve the resolution. The resolution was APPROVED 11-0.*

*Vice Chair Alstede opened public comments on the Fenimore landfill.*

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**Public Comment**

**Ken Collins, Andover, NJ** – Mr. Collins commented on the matter of a stream at the landfill. Mr. Collins submitted a map for the record.

**Kathy Panetta, Ledgewood, NJ** – Ms. Panetta commented on a stream at the landfill, and on issues regarding soil being brought onto the site.

**Bob Morocco, Ledgewood, NJ** – Mr. Morocco urged Council to provide supervision and oversight on the remediation. Mr. Morocco asked if the NJDEP showed Council the hydrological study on the stream under the landfill and where the source came from. Vice-Chair Alstede suggested that Mr. Morocco speak to Ms. Nordstrom after the meeting.

**Carl Panetta, Ledgewood, NJ** – Mr. Panetta asked Council to answer Mr. Morocco's questions.

**Council Comment**

*Member Carluccio made a motion to place an item on next month's agenda to consider rescinding the approval of the redevelopment designation decision. Member Walton seconded the motion.*

*A roll call vote was taken. The MOTION vote was 5 in favor and 6 opposed.*

Vice-Chair Alstede announced that the motion did not pass due to lack of eight votes.

Member Dougherty asked for advice from the Chief Counsel regarding certain sections of the Highlands Act. Chief Counsel Davis responded that he will advise Council next month on this matter.

*Mr. Richko made a motion to adjourn the meeting. Mr. Visioli seconded it. The meeting was adjourned at 6:25pm.*



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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: 9/19/14

Name: Annette Tagliareni  
Annette Tagliareni, Executive Assistant

**Vote on the Approval of  
This Resolution**

	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 T'fank					✓	
Councilmember Visioli			✓			
Councilmember Vohden						✓
Councilmember Walton			✓			
Chairman Rilee					✓	