

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JANUARY 16, 2014

**PRESENT**

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

**ABSENT**

MICHAEL R. DRESSLER )

**CALL TO ORDER** 127<sup>TH</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 Alstede, Dougherty, and Dressler were absent. All other members were present. *The following staff members were present: Gene Feyl, Margaret Nordstrom, Andrew Davis, Kim Kaiser, Chris Danis, James Humphries, Chris Ross, Keri Benscoter, Gene McColligan, Carole Dicton, and Tom Tagliareni. Also present were Peter Simon, Assistant Counsel of the Governor's Authorities Unit, and Matt Kelly, DAG.*

**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 MINUTES OF OCTOBER 17, 2013**

*Mr. Visioli introduced a motion to approve the minutes. Mr. Francis seconded it.*

*All members present voted to approve the Minutes of October 17, 2013. The minutes were APPROVED 11-0.*

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

**CHAIRMAN'S REPORT**

Chairman Rilee reported that five municipalities received Highlands Act Exemption Delegation Certificates to date: High Bridge, Mahwah Township, West Milford Borough, Mount Olive Township, and Byram Township.

Chairman Rilee also reported that the Checklist Committee name will be changed to Plan Conformance Committee and a new committee will be formed called the Regional Master Plan Review Committee. Chairman Rilee will reach out to members before the next meeting.

Mr. Feyl added that Plan Conformance is a comprehensive process and the Checklist Ordinance is merely one component, so it makes sense to broaden the name from Checklist Committee to Plan Conformance Committee, which is why staff recommended the change.

**COUNCIL MEMBER REPORTS**

Ms. Carluccio asked if the letter from the Warren County Board of Agriculture would be discussed at today's meeting and if it would be posted on Council's website. Chairman Rilee responded that there would not be a discussion at today's meeting. Regarding Ms. Carluccio's request to post the letter on Council's website, Chairman Rilee responded that he would take it under consideration.

*Member Dougherty was present at 4:06pm.*

**COMMITTEE REPORTS**

**Personnel Committee**

Member Alstede reported that the Personnel Committee held a meeting on December 2, 2013. At that meeting it was decided by the committee to promote staff member Nathan McLean to the position of GIS Specialist/Planning Coordinator with an annual salary of \$56,293. Nathan recently passed his State Board of Professional Planners and American Institute of Certified Planners (AICP) exams and received his full planning credentials this month.

Mr. Feyl asked that a roll call be called to ratify that recommendation.

*Mr. James made a motion to ratify the recommendation of the Personnel Committee to promote Nathan McLean to GIS Specialist/Planning Coordinator. Mr. Alstede seconded it. There was a roll call vote. The motion was APPROVED 13-0.*

**Budget & Finance Committee**

Chairman Rilee announced the Resolution.

**Resolution – Approval Of A Transfer Of A Transfer Development Rights Receiving Zone Feasibility Grant Town of Newton, Sussex County**

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*Mr. Francis made a motion on the Resolution. Mr. James seconded it.*

Chairman Rilee acknowledged the attendance of Debra Millikin, Deputy Town Manager, Town of Newton.

**Debra Millikin, Deputy Town Manager, Town of Newton** – Ms. Millikin commented on behalf of Newton's town council and town manager. She indicated that the town is very optimistic about this opportunity to possibly becoming a receiving zone for the Highlands. She said Newton looks forward to working with the Highlands Council on the process of a TDR feasibility study and what it renders.

**Public Comment**

**Julia Somers, New Jersey Highlands Coalition** – Ms. Somers congratulated the Council on this TDR effort for the Highlands.

**Council Comment**

Mr. Holtaway reported that the Budget and Finance Committee discussed this resolution at their meeting on January 7, 2014. Mr. Holtaway added that the Town of Newton is outside the Highlands but depends on Highlands resources. He represented that the Budget and Finance Committee recommends that Council approve this resolution.

*A roll call vote was taken. The resolution was APPROVED 13-0.*

Chairman Rilee announced the Resolution.

**Resolution – Approval Of Contract For Development Of A Web-Based Public Comment Portal In Support Of The Highlands Regional Master Plan Recommendation Report**

Mr. Holtaway reported that during review of the draft RMP, over 6,000 comments were received, so a decision was made to have convenient way to receive and collate comments so they may be reviewed as necessary.

The Council released an RFP for public bid on September 23, 2013 and received one proposal from Logan Simpson Design. Council staff presented to the Budget and Finance Committee on January 7, 2014 the proposal and qualifications of this firm and asked the Committee to authorize an award of \$49,996 with a \$20,000 contingency at the Executive Director's discretion, to increase the contract amount if warranted by the extent of public comments received. Mr. Holtaway represented that the Budget and Finance Committee recommended that Council approve this resolution.

*Mr. Vobden made a motion on the Resolution. Mr. Richko seconded it.*

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**Public Comment**

**Hank Klumpp, owner of property in the Highlands Preservation Area** – Mr. Klumpp asked if there would be an opportunity to submit public comments in some format other than online. Chairman Rilee responded that this would not be the sole source.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey expressed concerns that an outside consultant was being retained to perform work that should be done by Council staff.

Chief Counsel Davis clarified that this resolution would authorize the Executive Director to enter into a contract with an outside firm to design an automated system to receive and categorize comments, and this will not remove the Council staff from being involved in reviewing and responding to public comments received.

Member James asked if it would prevent anyone from mailing in their comments or reviewing all the comments. Chief Counsel Davis responded that it would not prevent anyone from mailing in comments or reviewing comments.

Member Francis asked if the comments will then be available verbatim. Chief Counsel Davis responded that there will be a public record of all comments submitted either by regular mail or electronic.

Mr. Feyl added that the process will remove any bias that may be there.

**David Shope, owns property in Lebanon Township, NJ** – Mr. Shope commented that comments will be posted on the internet and without internet access, he will not be able to see them. Chief Council Davis responded that whatever is available on the internet will be available in hard copy at the Highlands Council office.

**Council Comment**

Member Walton asked how this system removes bias. Mr. Feyl responded that once categories are set the process of sorting will be automated. Member Walton also asked if all comments received via written, email, mail, etc. would be included in this process. Mr. Feyl responded that all comments will be processed.

Ms. Carluccio commented that a public comment process is very important. Ms. Carluccio would like the details of how this web portal will be set up prior to voting on this resolution.

Mr. Feyl indicated that those details will be determined as the portal is developed. Mr. Feyl added that Council staff will report back to Council on the process.

Chief Counsel Davis commented that the detailed scope is not yet developed and will work with the consultant on this award.

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Member Dougherty raised concerns regarding the public's knowledge of this agenda item and the process that would be developed by the consultant. Chief Counsel Davis indicated that notice of the agenda item was published per the Open Public Meeting Act, and this resolution and process was no different than any other recommendations for the Council to authorize the Executive Director to enter into a contract pursuant to an RFP process. Mr. Feyl also represented that Council staff will provide an update to the Council at a public meeting when a process has been developed by the consultant.

*A roll call vote was taken. The resolution was APPROVED 12-1.*

**Checklist /Land Use Ordinance Review Committee**

Chairman Rilee announced the Resolution.

**Resolution – Approval Of The Minutes Of The Checklist Ordinance Committee**

Member Richko reported that a Checklist Ordinance Committee met on January 7, 2014. Four towns were recommended by the Council staff for Checklist Ordinance approach due to extremely limited development potential: White Township (3 parcels, total of 368 acres); Boonton Township (0 developable parcels); Jefferson Township (0 developable parcels); Washington Township, Warren County (2 parcels, total of 297 acres).

Ms. Christine Danis, Director of Planning and Science, then gave an overview of all four municipalities and the gross planning analysis employed in reaching the recommendations for use of the Checklist approach.

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

**Public Comment**

**Julia Somers, New Jersey Highlands Coalition** – Ms. Somers commented on White Township and Boonton Township and found it was burdensome to review on the website. Ms. Somers was concerned that Washington Township (Warren County) may have decided to not pursue their Planning Area due to the Checklist approach. Member Richko responded that he asked the same question about Washington Township. Ms. Danis explained that Council staff's recommendation regarding Checklist approach came after the Township indicated they were not going to move forward in the Planning Area.

**Council Comment**

Member Carluccio was concerned regarding the use of a Checklist Ordinance approach and added that she is disappointed that Washington Township removed themselves from the Planning Area.

There was then Council discussion on Plan Conformance and why or why not municipalities conform in the Preservation and Planning areas.

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*A roll call vote was taken. The resolution was APPROVED 11-2.*

## **EXECUTIVE DIRECTOR'S REPORT**

*Member Dougherty temporarily left the meeting at 5:01pm.*

Mr. Feyl gave his Executive Director's report to update the Council on staff activities. Under Mr. Feyl's delegated authority (Resolution 2013-25), there were 12 action items under Plan Conformance: Byram Township: Exemption Determination Ordinance adopted & Authorization Certification issued; Chester Township: Master Plan Reexamination Report deemed consistent, and Master Plan Highlands Element deemed consistent; Holland Township: Highlands Environmental Resource Inventory (ERI) adopted & deemed consistent, and Master Plan Highlands Element adopted & deemed consistent; Mahwah Township: Exemption Determination Authorization Certification issued; Montville Township: Master Plan Reexamination Report deemed consistent, and Master Plan Highlands Element deemed consistent; Mount Olive Township: Highlands Land Use Ordinance adopted & deemed consistent, and Exemption Determination Ordinance adopted & Authorization Certification issued; Rockaway Township: Master Plan Reexamination Report deemed consistent; and West Milford: Exemption Determination Ordinance adopted & Authorization Certification issued.

*Member Dougherty returned to the meeting at 5:05pm.*

Mr. Feyl welcomed Gene McColligan to Highlands staff as part-time Resource Management Specialist. Mr. Feyl also announced the resignation of Carl Figueiredo from his position as GIS Supervisor.

Highlands Council staff continues to reach out to counties, municipalities and government entities to encourage regional planning and the establishment of Transfer of Development Rights Receiving Zones. Since last month's meeting, staff attended 67 meetings, and received 29 constituent calls in November and 17 constituent calls in December.

Chairman Rilee announced the resolution.

### **Resolution – Highlands Development Credit Bank Annual Meeting Schedule of 2014**

*Mr. Walton made a motion on the Resolution. Mr. Dougherty seconded it.*

### **Public Comment**

**David Shope, owns property in Lebanon Township, NJ** – Mr. Shope questioned the need to adopt a schedule for the bank.

There were no Council comments.

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*A roll call vote was taken. The resolution was APPROVED 13-0.*

*Member Walton temporarily left the meeting at 5:08pm.*

Chairman Rilee reported that Council will have an Executive Session this evening regarding litigation, and would therefore open the meeting for Public Comments at this time.

Chairman Rilee opened the meeting for public comments.

**Public Comment**

*Member Alstede temporarily left the meeting at 5:09pm.*

**Julie Somers, New Jersey Highlands Coalition** – Ms. Somers requested that the public attend committee meetings.

*Member Walton returned to the meeting at 5:10pm.*

*Member Vohden temporarily left the meeting at 5:10pm.*

**Hank Klumpp, owns property in the Highlands Preservation Area** – Mr. Klumpp commented on his loss of property values and lack of compensation for property owners. Mr. Klumpp submitted his handwritten comments for the record.

*Member Alstede returned to the meeting at 5:12pm.*

**Helen Heinrich, New Jersey Farm Bureau** – Ms. Heinrich expressed support for Ms. Somers' comments regarding the public attending committee meetings.

*Member Tfank temporarily left the meeting at 5:13pm.*

*Members Voden and Tfank returned to the meeting at 5:15pm.*

*Member James temporarily left the meeting at 5:16pm.*

**George Stafford, New Jersey Highlands Coalition** - Mr. Stafford made comments regarding land values since 2004 in the Highlands region and outside the Highlands region.

*Member James returned to the meeting at 5:19pm.*

**David Shope, owns property in Lebanon Township, NJ** - Mr. Shope commented on various reasons he believes that municipalities seek Plan Conformance. Mr. Shope also commented on the cost of applications for development and land values discussed by Mr. Stafford.

**Council Member Vohden** also reported on a matter regarding land values.

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Chairman Rilee announced the resolution.

**Resolution – Executive Session**

Mr. Davis read 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

**WHEREAS**, the general nature of the subject to be discussed is litigation, in particular, 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 other matters involving attorney-client privilege,

**NOW, THEREFORE, BE IT RESOLVED**, that the Council may enter into closed session at its public meeting of January 16, 2014, for that purpose. It is anticipated at this time that the nature of the 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.

*Mr. Holtaway made a motion to go into Executive Session. Mr. James Richko seconded it.*

*A roll call vote was taken. The resolution was APPROVED 13-0.*

*Chairman Rilee called the Executive Session to order at 5:27pm and that action may be taken after the session.*

[EXECUTIVE SESSION]

*Chairman Rilee closed the Executive Session and resumed the New Jersey Highlands Water Protection and Planning Council meeting at 6:05pm.*

*Mr. James made a motion to adjourn the meeting. Mr. Holtaway seconded it. The meeting was adjourned at 6:05pm.*

**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: 2/21/14

Name: Annette Tagliareni  
Annette Tagliareni, Executive Assistant



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**Vote on the Approval of  
This Minutes**

	<b>Motion</b>	<b>Second</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Councilmember Alstede	_____	_____	_____	_____	_____	✓
Councilmember Carluccio	_____	_____	✓	_____	_____	_____
Councilmember Dougherty	_____	_____	_____	_____	_____	✓
Councilmember Dressler	_____	_____	_____	_____	_____	✓
Councilmember Francis	_____	✓	✓	_____	_____	_____
Councilmember Holtaway	_____	_____	✓	_____	_____	_____
Councilmember James	_____	_____	✓	_____	_____	_____
Councilmember Richko	_____	_____	✓	_____	_____	_____
Councilmember Sebetich	_____	_____	✓	_____	_____	_____
Councilmember Tfrank	_____	_____	✓	_____	_____	_____
Councilmember Visioli	_____	_____	✓	_____	_____	_____
Councilmember Vohden	_____	_____	✓	_____	_____	_____
Councilmember Walton	✓	_____	✓	_____	_____	_____
Chairman Rilee	_____	_____	✓	_____	_____	_____