

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MEETING MINUTES OF JUNE 19, 2014

PRESENT

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

ABSENT

MICHAEL FRANCIS)
BRUCE JAMES)
MICHAEL TFANK)

CALL TO ORDER 131st meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:06pm.

ROLL CALL

Roll call was taken. Council Members Dougherty, Dressler, Francis, James, and Tfank were absent. All other members were present. *The following staff members were present: Margaret Nordstrom (on-phone), Andrew Davis, Chris Danis, Kim Ball Kaiser, Corey Piasecki, Keri Benscoter, and Liz Carlson. Also present were Peter Simon, Governor's Authorities Unit, and Matthew 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 AND EXECUTIVE SESSION OF MAY 15, 2014

Chairman Rilee announced that there will be a separate roll call vote for the Minutes and Executive Session Minutes of May 15, 2014. Chairman Rilee asked for a motion on the Minutes of May 15, 2014.

Mr. Holtaway introduced a motion to approve the minutes of May 15, 2014. Mr. Richko seconded it.

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All members present voted to approve the Minutes of May 15, 2014. The minutes were APPROVED 9-0.

Chairman Rilee asked for a motion on the Executive Session Minutes of May 15, 2014.

Mr. Visioli introduced a motion to approve the Executive Session minutes of May 15, 2014. Mr. Holtaway seconded it.

All members present voted to approve the Executive Session Minutes of May 15, 2014. The Executive Session minutes were APPROVED 8-0, with one abstention, by Chairman Rilee.

CHAIRMAN'S REPORT

There was no Chairman report.

COUNCIL MEMBER REPORTS

Member Richko asked if the Personnel Committee met to discuss the Executive Director position and what is the plan to hire a new Executive Director. Chairman Rilee responded that the Personnel Committee met about a month ago.

Member Richko commented that Council staff has not received a salary increase in the past 5-7 years and feels it is time that Council discusses this matter. Chairman Rilee responded that the policy in Trenton is no pay raises, but Council can have a conversation with Budget & Finance and Personnel Committee to discuss this matter.

ACTING EXECUTIVE DIRECTOR'S REPORT

Ms. Nordstrom gave the Acting Executive Director's report via telephone conference to update the Council on some staff activities. Ms. Nordstrom announced that in Plan Conformance Implementation, Lebanon Township (Hunterdon County) adopted their Highlands Land Use Ordinance. Under Delegated Exemption Determinations, two exemptions were issued in Mahwah Township's Planning Area, and three exemptions were issued in Ringwood Borough's Preservation Area. Lastly, under the TDR program, six (6) allocation determinations were issued.

COMMITTEE REPORTS

Highlands Development Credit (HDC) Bank Committee

Committee Chair Walton reported on the HDC Bank Committee meeting held on May 29, 2014 and highlighted some items in the committee minutes which Council received in their packets. Committee Chair Walton reported that the HDC Bank Committee is looking for discernable criteria to use to evaluate properties to give compensation which focus on environmental value and landowner compensation. Discussion items at the committee meeting also included receiving and sending areas with the TDR Program and the criteria to make that happen. Member Walton noted that regarding HDC allocation expiration dates, Council staff recommended in the future that allocations issued be done so without an expiration date since there is a secondary review step at the time of application for credits. Member Walton announced that the Bank will have a meeting this

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Monday, June 23, 2014 to address the Bank's approval on a previous hardship award and with which issues were raised prior to the closing. Committee Chair Walton also reported that the committee discussed landowner compensation and land preservation and how PSE&G funds could be used. Committee Chair Walton emphasized that partners in municipalities and counties that are not conformed to the RMP would not be excluded from the receipt of such funds and that this could be used as an incentive to comply. Lastly, Committee Chair Walton announced that the next committee meeting scheduled on June 26th is postponed and members will be contacted to reschedule.

Council Comment

Ms. Carluccio had concerns regarding the PSE&G mitigation funds and the importance of keeping in mind how those funds are to be used regarding the impacts of the project. Chairman Rilee responded that the committee has taken great steps to make sure the terms of the agreement are followed.

Plan Conformance Committee

Resolution – Approval of the Minutes of the Plan Conformance Committee

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

Member Richko reported on the Plan Conformance Committee which met on June 12, 2014. Member Richko reported that there was a recommendation from staff that Alexandria and Sparta Townships be considered for Checklist approach and the committee voted unanimously to recommend to the full Council.

Council Comment

Member Carluccio expressed concerns regarding the use of the Checklist approach.

Chairman Rilee opened the meeting for public comment on this resolution.

Public Comment

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey commented that she would like to see the background materials upon which the decision was made that this was appropriate use of the Checklist approach for Sparta Township. Ms. Frey submitted a one page memorandum for the record.

Robert Bracken, Board of Directors, New Jersey Builder's Association – Mr. Bracken commented that the last paragraph of the resolution reads Checklist Ordinance Committee, instead of Plan Conformance Committee.

Member Richko made a motion to amend the resolution to change the words "Checklist Ordinance Committee" to "Plan Conformance Committee" in last paragraph of resolution. Member Walton seconded.

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Member Carluccio does not feel Council should vote on this resolution due to the fact that a presentation was not given to the full Council.

A roll call vote was taken. The resolution vote was 7 in favor and 2 opposed. Accordingly, the resolution did not pass.

Chairman Rilee asked Chief Counsel Davis for advice on protocol in light of the vote. Chief Counsel Davis indicated he would review and report back to the Chairman.

Regional Master Plan Update Committee

Mr. Dougherty was present at 4:32pm.

Member Alstede reported that in Council's packet there is a memorandum regarding the RMP Update Committee meeting held on May 14, 2014. Member Alstede then turned the meeting over to staff member Corey Piasecki.

Mr. Piasecki gave a presentation related to the Highlands Regional Master Plan Monitoring Program Timeline and Overview which may be found at the following link:

http://www.highlands.state.nj.us/njhighlands/about/calend/2014_meetings/jun19/RMP_Monitoring_Program_Timeline_preso.pdf

Council Comment

There was Council discussion on the logistics of the RMP update process, when it will come to Council, and how members can participate in this process. Committee Chair Alstede emphasized that this is the beginning portion of collecting data, public input, reviewing, and approving the release of the data. Committee Chair Alstede also added that Council can engage as much or as little in the process as they like. For clarity purposes, page 4 of the presentation will be revised and posted to the website.

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 comment on that matter.

Public Comment

Hank Klumpp, owns property in the Highlands Preservation Area – Mr. Klumpp commented regarding the real estate tax value on his property. Mr. Klumpp also commented on the Minutes of May 15, 2014. The word “office” in his comment on page 6 of the minutes should read “open”. *[This typographical error was corrected].*

Erica Van Auken, New Jersey Highlands Coalition – Ms. Van Auken asked for clarification on the last agenda item “Regional Master Plan Update Committee”. Ms. Van Auken asked if the timeline refers to the Monitoring Program Recommendation Report (MPRR) or the Regional Master Plan (RMP). Committee Chair Alstede responded that it refers to the MPRR. Ms. Van Auken also

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requested that Council take public comment before Executive Session today related to Fenimore Landfill.

Julia Somers, New Jersey Highlands Coalition – Ms. Somers commented with regard to the Checklist approach.

David Shope, owns property in Lebanon Township, NJ – Mr. Shope asked Council to define the words “stakeholder” and “land preservation.” Mr. Shope submitted a document entitled “Lessons from New Jersey” which he would like to include in the RMP review process. Mr. Shope also asked if anything was done regarding Member Dressler’s request for a property compensation committee. Lastly, Mr. Shope provided the definition of the word “investigation” regarding issues raised by Mr. Moffitt.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey questioned the procedures for the Checklist approach as she recalls that Alexandria and Sparta Townships were approved by Council for Plan Conformance.

Robert Bracken, Board of Directors of New Jersey Builder’s Association – Mr. Bracken expressed concern with respect to the Council’s application of the checklist approach in the Planning Area of Rockaway Township. Mr. Bracken asked Council in the RMP Review to look at the smart growth issues.

Chairman Rilee suspended the public portion of the meeting and recused himself from matters related to the Fenimore landfill. Chairman Rilee then left the meeting room.

Fenimore Landfill

Vice-Chair Alstede took over this portion of the meeting relating to an Executive Session and public comments regarding the Fenimore landfill.

Vice-Chair Alstede gave in overview of where Council is currently relating to the Fenimore Landfill matter, noting as follows:

- At the conclusion of Council’s meeting of May 15th, a motion was made by Council Member Carluccio to rescind the Council’s designation of the Fenimore Landfill as a Highlands Redevelopment Area. That motion was seconded by Council Member Dougherty.
- Vice-Chair Alstede then asked for legal advice on whether this would necessitate going into executive session to discuss the potential for litigation. Chief Counsel Davis responded that while the Council did have the ability to go into executive session for this purpose, he was concerned that there was no public notice that the Council would be considering rescinding the designation of the site.
- On that basis, Vice-Chair Alstede suggested that the Council table the motion of Council Member Carluccio, and consider it further at the next meeting (tonight). The motion to table was moved, seconded and adopted by the Council.

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Resolution – Executive Session

Vice-Chair Alstede recommended that Council enters Executive Session to discuss legal issues in connection with the Fenimore landfill.

Vice-Chair Alstede announced the Resolution and asked for a motion.

Mr. Walton made a motion to go into Executive Session. Mr. Visioli seconded it.

Council Comment

A discussion then ensued among Council Members regarding whether or not to take public comment on the Fenimore matter before or after going into executive session.

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

WHEREAS, the general nature of the subject to be discussed is pending and/or potential litigation in connection with the Fenimore Landfill, 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 June 19, 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.

A roll call vote was taken. The resolution was APPROVED 9-0.

Public portion of the meeting was closed at 5:13pm.

[EXECUTIVE SESSION]

Vice-Chair Alstede closed the Executive Session and resumed the New Jersey Highlands Water Protection and Planning Council meeting at 6:18pm.

Vice-Chair Alstede stated that Council is concerned about the Fenimore Landfill issue and the impact it has had on personal lives, but Council also has concerns on different levels which go to the heart of the Act and RMP, and the Council's charge by the State Legislature and the Governor to protect the natural resources in the Highlands region. Vice-Chair Alstede then reviewed step by step where the Council is, the actions Council has taken, what authority Council has and does not have, and then went over what Council plans to do going forward. He then opened the meeting for public comment.

Member Dressler was present at 6:20pm. It was noted that Member Dressler participated in the greater portion of the Executive Session.

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Member Alstede opened the meeting to public comment specific to Fenimore Landfill and emphasized that comments are to be limited to three (3) minutes.

Public Comment

George Stafford, Wharton, NJ – Mr. Stafford commented that this remains a site that Council approved of as a redevelopment site. Vice-Chair Alstede responded what Council has approved is a concept of placing solar on a clean and properly capped landfill.

David Peifer, Association of New Jersey Environmental Commission – Mr. Peifer commented that he is disappointed with Council's decision about not rescinding the designation, but understood the Council's position and ANJEC would accept that explanation. Mr. Peifer is heartened that Council will have a dialog with DEP and hopes Council is able to provide oversight into the cleanup process with DEP as they move forward and to do that with the spirit that Council wants the Highlands preservation area to be protected.

George Cassa, co-owner of Shannon's Fly and Tackle Shop, Califon – Mr. Cassa commented that he has an economic interest in the quality of the headwaters of the Raritan River and is concerned about the future use of the property. Mr. Cassa had a different angle on Mr. Stafford's question regarding the status of that parcel as property that the Council considers eligible as a Highlands Redevelopment Area as opposed to a Highlands Redevelopment Area with a specific application. Mr. Cassa asked if it would be possible for Council to have approved that as a general area for redevelopment without knowing what the function would be when it was redeveloped.

Vice-Chair Alstede turned the meeting over to Chief Counsel Davis. Chief Counsel Davis passed the question to the Director of Planning & Science since it is more of a process issue. Ms. Danis, Director of Planning & Science, responded that currently the Highlands Redevelopment Area application and approval was specific to the activity of the placement of solar panels on a portion of the DEP approved Track One Brownfield site. The Council approval included specific conditions that were required within the delineated boundary approved by DEP as part of the Track One Brownfield site. The conditions included a landscaping plan, a stream protection corridor plan, a conservation management plan including a conservation easement area, and if any of those conditions changed then that would change the application and the Brownfield Area that was designated. Ms. Danis added that it is a two-step process, first DEP designation as a Highlands Brownfield site, and then Highlands Council's designation of the area as a Highlands redevelopment area.

Victor Dean, Ledgewood, NJ – Mr. Dean asked how can we be sure DEP is telling the truth. Mr. Dean commented on his granddaughter's health issues.

Mr. Visioli left the meeting at 6:43pm.

Marion Emery – Ms. Emery submitted her medical records from the past couple of years. Ms. Emery commented that rescinding the resolution would have given her and her family hope in the system. Ms. Emery commented that Council should not believe what they read in the newspapers.

Vice-Chair Alstede responded that Council is not rescinding the resolution now.

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Kathy Panetta, Ledgewood, NJ – Ms. Panetta commented that when Council listens to the DEP about statistics think about it logically.

Carl Panetta, Ledgewood, NJ – Mr. Panetta commented on Governor Christie's comments related to the Fenimore Landfill issue.

Ken Collins, Andover, NJ – Mr. Collins commented that he thanks Council for their ongoing concerns regarding the Fenimore Landfill and asks that Council return the landfill to the benign wooded lot it was five years ago. Mr. Collins requests that Council reconsider the decision to rescind next month. Mr. Collins asked under what circumstances Council will reconsider rescinding the redevelopment designation for Fenimore Landfill going forward.

Vice-Chair Alstede responded that Council has not established any benchmarks at this time other than a commitment to monitor the situation and place it on the agenda on an ongoing basis, and review the status of the capping and cleanup operations.

Mr. Dougherty left the meeting at 6:53pm.

Donna Zimmer, Succasunna, NJ – Ms. Zimmer thanked the Council for the opportunity to express concerns, fears, and wishes of her community. Ms. Zimmer is concerned about the health impacts and effects of hydrogen sulfide related to the landfill and the testing that has not been done. Ms. Zimmer submitted her comments and the Roxbury Environmental Action Coalition Report for the record.

Bob Schultz, Succasunna, President, REACT – Mr. Schultz thanked the Council for listening to the concerns, fears, and anxieties of those present and expressed disappointment that Council is not voting to rescind. Mr. Schultz commented that the DEP is only addressing the air quality, but are not addressing the soil and water. If Council personally cares, Mr. Schultz asks Council to join their fight to help the quality of life for the children.

Ms. Woods – Ms. Woods commented if it is Council's job to protect our air, land, and water, will the Council get the soil tested properly.

Council Comment

Member Carluccio commented that she still believes Council should rescind and Council will continue to work with DEP.

Member Richko commented that DEP has to make the final approval, but Council may want to consider having this looked at by a federal agency.

Mr. Walton made a motion to adjourn the meeting. Mr. Holtaway seconded it. The meeting was adjourned at 7:05pm.

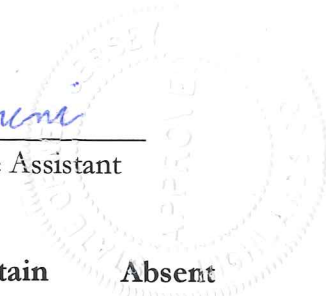
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CERTIFICATION

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: 7/22/14

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant



Vote on the Approval of These Minutes

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