

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF DECEMBER 6, 2018

**PRESENT**

CARL J. RICHKO	)	CHAIR
KURT ALSTED	)	VICE CHAIR
MICHAEL FRANCIS	)	COUNCIL MEMBERS
ROBERT HOLTAWAY	)	
BRUCE JAMES	)	
MICHAEL SEBETICH	)	
JAMES VISIOLI	)	
RICHARD VOHDEN	)	
ROBERT G. WALTON	)	

**VIA TELECONFERENCE**

TRACY CARLUCCIO	)
TIMOTHY P. DOUGHERTY	)

**ABSENT**

MICHAEL R. DRESSLER	)
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**CALL TO ORDER** 165<sup>TH</sup> meeting of the New Jersey Highlands Water Protection and Planning Council called to order at 4:01pm.

**ROLL CALL**

Roll call was taken. Member Dressler was absent. Members Carluccio and Dougherty were present via teleconference. All other Council Members were present. *The following staff members were present: Lisa J. Plevin, John Maher, James Humphries, Annette Tagliareni, Maryjude Haddock-Weiler, Christine LaRocca, Corey Piasecki, Herb August, Keri Green, Casey Ezyske, Christina Petagna, Carole Ann Dicton, and Tom Tagliareni. Also present were Lauren Nathan-LaRusso, Associate Counsel, Governor's Authorities Unit, and Jennifer Moriarty, Deputy Attorney General.*

**OPEN PUBLIC MEETINGS ACT**

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

**PLEDGE OF ALLEGIANCE** was then recited.

*Chairman Richko asked for a moment of silence to honor former President George H.W. Bush.*

**APPROVAL OF HIGHLANDS COUNCIL MINUTES OF OCTOBER 18, 2018**

Chair Richko asked for a motion on the Minutes of October 18, 2018.

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*Member Holtaway made a motion to approve the Minutes of October 18, 2018. Member Visioli seconded it.*

*A roll call vote was taken. The Minutes of October 18, 2018 were APPROVED 11-0.*

**APPROVAL OF HIGHLANDS DEVELOPMENT CREDIT (HDC) BANK MINUTES OF  
NOVEMBER 1, 2018**

Chair Richko asked for a motion on the HDC Minutes of November 1, 2018.

*Member Walton made a motion to approve the HDC Minutes of November 1, 2018. Member Holtaway seconded it.*

*A roll call vote was taken. The HDC Minutes of November 1, 2018 were APPROVED 11-0.*

**CHAIRMAN'S REPORT**

Chairman Richko wished everyone a Happy Holiday and Happy New Year.

**EXECUTIVE DIRECTOR'S REPORT**

Ms. Plevin highlighted the following staff activities:

**Plan Conformance Update**

Outreach Activities

To date, 25 meetings have been held/scheduled. Since the last Council meeting, staff have met with:

- Victory Gardens
- Parsippany-Troy Hills
- Sussex County
- Franklin Borough
- Hamburg Borough
- Wharton Borough
- Town of Dover
- Parsippany-Troy Hills Council Meeting

Petition Status

Hunterdon County

- At its November 7, 2018 Freeholder Board meeting, the County of Hunterdon passed a resolution indicating the county's intent to submit a petition to conform with the Regional Master Plan. Highlands Council staff have been actively engaged with the county for several years and will continue to work in partnership with the county through the petition process.

Municipally Issued Exemptions

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Since the prior report, the Highlands Council has been notified of the following municipally issued exemptions.

- Mahwah Township, Bergen County issued 2 Exemption #2 and 1 Exemption #4.
- West Milford, Passaic County issued 8 Exemption #5, 2 Exemption #4 and 1 Exemption #1.
- Lebanon Township, Hunterdon County issued 1 Exemption #4.

### **Project Review Update**

WQMP Amendment Review – Staff reviewed 3 projects:

- 2 in Mine Hill Township, Morris County
- 1 in Franklin Township, Warren County

### Planning Area Consistency Review

Heritage Senior Living, Washington Township, Morris County

- Applicant is seeking to construct a 36-bed assisted living facility on a previously disturbed site.
- Highlands Council staff finding: Consistent with conditions.

### **Open Space Partnership Funding Program Update**

#### Transaction Closings

Johnson Property - Byram Township, Sussex County

- Project Type: Open Space Acquisition (Township land)
- 44 acres
- Worked in partnership with Byram Township, Green Acres, the Open Space Institute, and the New Jersey Conservation Foundation (NJCF).
- Property purchased by Byram Township.
- Total acquisition cost: \$460,000.00
- Highlands Council share: \$227,275.00
- Expands existing township park: Cranberry Overlook Greenway
- Barred Owl, Bobcat, Broad-winged Hawk, Hooded Warbler, Least Flycatcher, Red-shouldered Hawk, Veery, Wood Thrush, Worm-eating Warbler
- Additional information:
  - A press release from NJCF is in progress.
  - Great win for the Highlands. Property is in the Special environmental zone and mapped 100% critical habitat. Almost entirely prime groundwater recharge.

### **TDR/HDC Update**

Since the prior report, three HDC allocation determinations have been completed.

### **Federal Highlands Conservation Act Grant**

On November 9, the Highlands Council was notified of a \$4.6 million award from the U.S. Fish and Wildlife Service (USFWS). This award is linked to 14 specific land preservation projects that were submitted to Fish & Wildlife in response to this grant application announcement. Procedurally, now that there's funding, our Landowner Equity and Land Preservation Committee will review the applications projects and grant information, and then make a recommendation to the full Council to approve the

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applications for purchase (by resolution). We are currently targeting a January Committee meeting and approvals of the applications at the January 17, 2019 Council meeting.

All 14 properties were approved for funding by the USFWS, which requires a match of at least 50% of the purchase price. The corresponding matching funds will be provided by the Open Space Program applicants themselves (through local, county, state, private, or non-profit funding). Effectively, the Highlands Council is linking the federal money with the pledged match of the Open Space Program applicants.

**Noteworthy meetings and events:**

Since the last Executive Director's Report dated October 12, 2018, along with the Outreach meetings noted above, staff attended the following meetings:

11/13-15/18 New Jersey League of Municipalities  
12/6/18 Green Acres - Training Appraisal Process  
12/7/18 Jersey Water Works Conference

Member Sebetich asked when the Council will know the properties associated with the Fish & Wildlife grant. Ms. Plevin responded that Council staff plan to meet with the Landowner Equity & Land Preservation Committee in early January, after which the Committee will report out to the full Council.

**Regional Master Plan (RMP) Amendment Committee**

Committee Chair Alstede reported that Council will consider a resolution today on a document entitled "Procedures for Highlands Redevelopment Area Designation" ("Redevelopment Procedures"). Council may recall that the Redevelopment Procedures were adopted in 2008 and amended in 2016. The RMP Amendment Committee held two meetings this past week, one on December 3, 2018; and another on December 6, 2018, which was open to the public. The Redevelopment Procedures outline the process by which a property owner or municipality may apply to the Highlands Council for a designation of a Highlands Redevelopment Area Designation, which is required to obtain certain NJDEP permits and waivers. Council will consider a resolution today to release the Redevelopment Procedures for public comment and 5+1 public hearings, as required under our previously adopted Procedures for Amending the RMP, prior to the Redevelopment Procedures being adopted. Committee Chair Alstede also reported that the Council received a memorandum with amended revisions to the Redevelopment Procedures in reference to the word "control" throughout the document. Council staff noted that if the applicant could demonstrate "control" of all properties included in the application, then the individual could be the applicant.

*Committee Chair Alstede introduced the resolution and asked for a motion on the Redevelopment Procedures "as amended."*

**Resolution – Authorization For Highlands Council Staff To Conduct The 'Five Plus One' Public Hearings Before The "Procedures For Highlands Redevelopment Area Designation" Can Be Adopted As An Addendum To The Highlands Regional Master Plan**

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*Member Francis made a motion. Member Holtaway seconded it.*

Council Comment

Member Carluccio asked if Council will adopt the Redevelopment Procedures tonight. Chairman Richko responded that the resolution is to release the Redevelopment Procedures to public comment and 5+1 public hearings. Member Carluccio felt it was necessary to have a work session on the Redevelopment Procedures prior to adoption and she wanted it to be clear that the full Council has not approved the substance of this proposal.

Member Walton commented that we are discussing now whether to go to public hearing and not the content, which will be at another time.

Member James added that he would like to have the opportunity to review public comments prior to discussing the substance of the Redevelopment Procedures.

At this time, Council staff gave a brief presentation on the Redevelopment Procedures which may be found on the Council's website at the following link:

[www.nj.gov/njhighlands/about/calend/2018/dec06/120618\\_council\\_preso.pdf](http://www.nj.gov/njhighlands/about/calend/2018/dec06/120618_council_preso.pdf)

*Member Walton left the meeting temporarily at 4:24pm.*

*Member Walton returned to the meeting at 4:25pm.*

During the presentation, Member Francis asked if the Redevelopment Procedures preempts Statutory Title 40 of Land Use Law. Council staff responded that a Highlands Redevelopment Area Designation has nothing to do with redevelopment law. Member Francis asked which one carries the more weight. Council staff responded that they are both statutorily created, but are not related. There were continued discussions on this topic.

Member Carluccio asked how the Redevelopment Procedures changes the Regional Master Plan. Member Carluccio suggested that the Council have a side by side comparison of the document.

Member Walton asked for point of order.

Chair Richko noted that the resolution is sending the Redevelopment Procedures out for public comment and 5+1 public hearings.

Member Carluccio proposed that a work session occur before public hearings.

Council staff noted that they were advised by DAG to either write a rule or amend the RMP to make the Redevelopment Procedures an addendum to the RMP. Council has been following the procedures laid out in this document for redevelopment designations up to this point.

Public Comment

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**George Stafford, New Jersey Highlands Coalition** – Mr. Stafford asked what the definition is for “control” and will we see the definition before the public comment period.

**David Shope, Lebanon Township, NJ** – Mr. Shope asked what the definition is for “site.” Council staff responded that it is a property, part of a property or multiple properties.

**Hank Klumpp, Tewksbury, NJ** – Mr. Klumpp commented on the TAC meetings and MPRR. Chair Richko responded that the resolution is on the Redevelopment Procedures document.

Member Alstede added as a follow up to Mr. Shope’s comment, if Mr. Shope wants the definition of the word “site” to appear in the Redevelopment Procedures document he may make that comment during the public comment and public hearing period.

Council Comment

*A roll call vote was taken. The resolution was APPROVED 9-1.*

**Budget & Finance Committee**

**Resolution – Approval of FY2019 Highlands Protection Fund Capital Budget for Plan Conformance Funding**

Chairman Richko asked for a motion on the resolution.

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

Committee Chair Holtaway noted at Council’s last meeting, Council took action on the Highlands Protection Fund Capital Budget for FY2019. Today’s resolution allows Council to spend those funds. It allows staff to make contracts with municipalities and counties that have projects with approved scopes of work as part of the Plan Conformance Grant process. The funding will be allocated but not reimbursed until Council staff is satisfied that both the deliverables and associated invoicing matching a mutually agreed upon scope of work. This resolution will encumber about ½ of budgeted funds. If there are other qualified municipalities and counties, Council staff will prepare a subsequent resolution with those details to be voted on a future Highlands Council meeting.

Member Walton spoke in opposition of this resolution and plans to vote no.

Public Comment

**David Shope, Lebanon Township, NJ** – Mr. Shope spoke in opposition of this resolution.

**Deborah Post, Chester Township** – Ms. Post spoke in opposition of this resolution and asked why there is no grant funding for landowners.

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Member Walton asked if Council provides legal fees for the Highlands Development Credit Bank programs. Council staff responded that reimbursement for legal fees is provided.

*A roll call vote was taken. The resolution was APPROVED 8-3.*

Chairman Richko opened the meeting to the public for any other comments.

**Public Comment**

**Deborah Post, Chester Township** – Ms. Post commented on the statute that allows the Council's municipal averages to be used in lieu of two appraisals in connection with valuing property in the Preservation Area. Ms. Post submitted her comments for the record.

**Hank Klumpp, Tewksbury, NJ** – Mr. Klumpp commented on a bill that establishes dedicated funding for open space programs of 2020 and why a dedicated source is not established for Highlands landowners. Mr. Klumpp submitted his comments for the record.

**David Shope, Lebanon Township, NJ** – Mr. Shope asked why it is so hard to find the definition of "site."

**George Cassa, has a business in Califon, NJ** – Mr. Cassa referred to Ms. Post's constructive suggestion concerning the method of calculating values and if there are other options that can be considered.

Member James asked Council staff to provide a report on Ms. Post's concerns.

*Member Holtaway made a motion to adjourn the meeting. Member James seconded it. All were in favor. The meeting was adjourned at 5:02pm.*

**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: 1-17-19

Name: Annette Tagliareni  
Annette Tagliareni, Executive Assistant

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**Vote on the Approval of  
The 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 Sebetich	_____	_____	✓	_____	_____	_____
Councilmember Visioli	_____	_____	✓	_____	_____	_____
Councilmember Vohden	_____	_____	✓	_____	_____	_____
Councilmember Walton	_____	✓	✓	_____	_____	_____
Chairman Richko	_____	_____	✓	_____	_____	_____