

**HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF DECEMBER 1, 2021**

VIA TELECONFERENCE:

ROBERT F. HOLTAWAY)	CHAIRMAN
DALE DAVIS III)	DIRECTOR
HEBERTON “RUSTY” FRICKE)	DIRECTOR
SUSAN E. PAYNE)	DIRECTOR
ANDREW R. MCELROY)	DIRECTOR
RICH NIEUWENHUIS)	DIRECTOR
CARL J. RICHKO)	DIRECTOR
GREG ROMANO)	DIRECTOR
DANIEL VAN ABS)	DIRECTOR

CALL TO ORDER

Chairman Robert F. Holtaway, called the 26TH meeting of the Highlands Development Credit Bank Board of Directors to order at 4:00 p.m.

ROLL CALL

Roll call was taken. All other directors were present via video/teleconference. *The following Council staff members were present: Lisa J. Plevin, James Humphries, Gabrielle Gallagher, Tom Tagliareni, Herb August, Steve Simone, Carole Dicton, and Annette Tagliareni. Also present via teleconference were Jeffrey Nielsen, Associate Counsel, Governor’s Authorities Unit; and Jason Kane, Deputy Attorney General (DAG).*

OPEN PUBLIC MEETINGS ACT was then recited.

PLEDGE OF ALLEGIANCE was then recited.

CHAIRMAN’S REPORT

Bank Chair Holtaway reported that this is his first meeting as Chair of the Highlands Development Credit (HDC) Bank and thanked Chair Richko for his appointment. Bank Chair Holtaway noted that the Bank Board still has no significant amount of funding for the purchase of Transfer of Development Rights credits. Bank Chair Holtaway also noted that there is one item on the Bank’s meeting agenda—the Municipal Average Subcommittee—which will be discussed today.

APPROVAL OF MEETING MINUTES FOR NOVEMBER 5, 2020

Director Payne made a motion to approve the minutes and Director Davis seconded it.

A roll-call vote was taken and the Minutes were APPROVED 6-0, with two (2) abstentions by Directors Nieuwenhuis and Van Abs.

EXECUTIVE DIRECTOR REPORT

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Ms. Plevin provided the following report:

Highlands Development Credit (HDC) Allocation Update

Ms. Plevin reported that to date staff reviewed 188 HDC allocation applications, resulting in 4,107 allocated HDCs, representing 8,731 acres and a total value of over \$65.5 million.

Highlands Development Credit Purchase Program Update

Ms. Plevin also reported that the HDC Bank purchased easements on 70 properties, providing nearly \$28 million to landowners in the Highlands. Three (3) additional properties have placed easements on their property and are holding the credits for future sale. The Highlands Council leveraged \$4.5 million in federal Highlands Conservation Act funds to complete those transactions. In total, 2,565 acres are preserved.

Highlands Development Credit Bank 2022 Meeting Schedule

Lastly, Ms. Plevin reported at the October Highlands Council meeting, the Council approved the HDC Bank meeting schedule for 2022. Meetings will continue to be held at 4:00 p.m., and the following dates for 2022 are:

February 3
May 5
August 4
November 3

Municipal Average Subcommittee

Bank Chair Holtaway gave a summary of the Municipal Average Subcommittee’s work leading up to today’s resolution.

Bank Chair Holtaway noted that municipal average value is a topic that has been discussed by the public before the Highlands Council and HDC Bank Board in the past. The issue is the difficulty of obtaining dual appraisals based on the fact that it is almost 20 years since the passage of the Highlands Act. There are logistical difficulties for appraisers to develop those required dual appraisals. To address this situation the Highlands Act permits the use of a “municipal average value” in place of dual appraisal. However, the statute contains many open issues and unresolved questions.

The Subcommittee has worked diligently to prepare the request for proposals (RFP) to develop Municipal Average Values and format it so that we can move forward step-by-step to resolve the underlining issues first (as Phase 1), and then perform trial implementations of different methodologies in subsequent phases.

The Highlands Council received responses to the RFP from two firms: 1) Integra Realty Resources-Northern New Jersey, LLC – the firm that did the original TDR study valuations; and 2) CohnReznick. The Subcommittee reviewed each proposal and did a scoring sheet to assign points

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for each respondent. Integra Realty was the lower cost respondent and had higher points based on knowledge and project completeness. The Subcommittee then interviewed Integra Realty. Following this discussion, the scope of work (SOW) was revised with an option to cancel the contract at any time and cease the project.

Mr. Humphries noted that the Subcommittee and Council staff needed to go through a number of steps. Mr. Humphries added that the Subcommittee first had to agree that it was necessary, and then the Subcommittee reviewed the existing information in the TDR Technical Report to determine the validity. Once that was done, an RFP was drafted and went through several iterations due to its complexity. Mr. Humphries also added that funding needed to be obtained, and Director Payne assisted in that process. The Bank ultimately received \$1M from the Treasury to fund this project.

Mr. Humphries stated that a municipal average value is allowed in the Statute, but the Statute is not clear in its language and offers no guidance on how to develop it. The scope of work will have distinct break points so that work can be stopped, and the approach reconsidered. Lastly, Mr. Humphries noted that the Highlands Council will need to approve the HDC Bank Minutes for the project to proceed.

Bank Chair Holtaway added that this is a cost-based item so as we move through the project, the Bank will be reimbursing the contractor on estimated hours spent on each task. Integra Realty's cost proposal is \$290,462 and CohnReznick's cost proposal is between \$460,000 and \$600,000.

Mr. Humphries noted that the Subcommittee came to a unanimous decision to award to Integra Realty, not just regarding the cost, but due to their direct individual experience with the Highlands and the TDR Program. Bank Chair Holtaway also added that the underlining committed value of \$290,462 may not be spent in its entirety.

Bank Chair Holtaway stated that one positive with this project is that all farmland preservation would be able to use the municipal average value.

Resolution – Approval of Contract for Highlands Regional Transfer of Development Rights (“TDR”) Real Estate Analysis and Development of Municipal Average Value

Chairman Holtaway asked for a motion on the resolution.

Director Payne made a motion. Director Davis seconded it.

Director Comment

Director Payne thanked the Highlands Council staff and Subcommittee members for their time. Director Payne added that this is important and timely. The landowner value protection mechanism that was built into the Highlands Act is getting progressively disconnected from reality. In New Jersey, it is easy to take for granted the amount of money we have to preserve land. We are in the enviable position of having resources and lands that need to be protected permanently and we have to figure out how to get there. Director Payne believes this municipal average investigation will

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“move the ball forward.” In terms of timing, because the dual appraisal language expires in 2024, Director Payne feels this is the perfect time to begin this project.

Director Van Abs asked what the contract process is regarding the cost proposal. Bank Chair Holtaway responded that it will be an hourly process due to the nature of the SOW. Chief Counsel Gabrielle Gallagher reiterated that it is an hourly contract. The contractor submits bills that coincide with the SOW which is pre-approved. Once Council staff verifies that the work has been completed and hours are determined to be reasonable, the bill gets paid.

Public Comment

Gordon Levy, Jefferson Township – Mr. Levy thanked everyone for their efforts to create a system that is within the Statute and create a valuation for our properties. Mr. Levy spoke in opposition to the HDC Bank’s lack of funding for landowners’ properties that he says were taken without just cause due to the Highlands Act.

Bank Chair Holtaway noted that Receiving Areas are voluntary, and the Bank has not had a municipality volunteer for this.

David Shope, Lebanon Township – Mr. Shope was pleased that Integra Realty is receiving the contract award and urged the Council to not discount the value. Mr. Shope noted that Ms. Post brought the municipal average topic to the HDC Bank Board.

Bank Chair Holtaway confirmed that it was Deborah Post who started this discussion.

A roll-call vote was taken. The Resolution was APPROVED 8-0.

Chairman Holtaway opened the floor for public comment on any other matters.

PUBLIC COMMENT

Hank Klumpp, Tewksbury Township – Mr. Klumpp complimented Bank Chair Holtaway’s synopsis on the municipal average value and is glad Integra Realty was awarded the contract. Mr. Klumpp also commented on Mr. Shope’s comments and that it was Deborah Post who started this municipal average discussion. Lastly, Mr. Klumpp spoke in opposition of the Bank’s lack of funding.

Bank Chair Holtaway responded that the Bank will try to secure additional funding from the Legislature, but it is completely out of the Bank’s hands.

David Shope, Lebanon Township – Mr. Shope commented that this procedure is frustrating for landowners. Mr. Shope spoke in opposition of the HDC Bank’s lack of funding and TDR credits.

Gordon Levy, Jefferson Township – Mr. Levy commented that when the Supreme Court ruled that the Act was constitutional because property owners have the ability to get value out of their property, this was not the case. Mr. Levy spoke in opposition of the Highlands Act and the Legislature.

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Bank Chair Holtaway wished everyone a happy holiday.

Council Chair Richko made a motion to adjourn the meeting and Director Payne seconded it. The meeting adjourned at 4:44 p.m.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Development Credit Bank Board.

Date: 5/5/2022

Name: Annette Tagliareni

Annette Tagliareni, Executive Assistant

Vote on the Approval of Minutes	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Director Davis	√		√			
Director Fricke			√			
Director Nieuwenhuis						√
Director Payne						√
Director Richko			√			
Director Romano			√			
Director Van Abs		√	√			
Chairman Holtaway						

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Highlands Council approved the Highlands Development Credit Bank Minutes of December 1, 2021 at its December 9, 2021 meeting.

Vote on the Approval of The Minutes	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede			√			
Councilmember Dougherty			√			
Councilmember Dressler			√			
Councilmember Francis			√			
Councilmember Holtaway	√		√			
Councilmember James					√	
Councilmember Sebetich			√			
Councilmember Van Abs		√	√			
Councilmember Visioli						√
Councilmember Vohden			√			
Chairman Richko			√			