

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MEETING MINUTES OF APRIL 21, 2022

PRESENT

VIA TELECONFERENCE:

CARL J. RICHKO)	CHAIR
KURT ALSTEDE)	VICE CHAIR
ROBERT HOLTAWAY)	COUNCIL MEMBERS
TIMOTHY DOUGHERTY)	
MICHAEL R. DRESSLER)	
MICHAEL FRANCIS)	
BRUCE JAMES)	
MICHAEL SEBETICH)	
DAN VAN ABS)	
JAMES VISIOLI)	
RICHARD VOHDEN)	

CALL TO ORDER 189TH meeting of the New Jersey Highlands Water Protection and Planning Council was called to order at 4:00pm via Zoom videoconference.

ROLL CALL

Roll call was taken. All Council Members were present via video conference. *The following staff members were present via videoconference: Lisa J. Plevin, Gabrielle Gallagher, James Humphries, Maryjude Haddock-Weiler, Kelley Curran, Corey Piasecki, Neda Hartman, Annette Tagliareni, Carole Ann Diction, Tom Tagliareni and Karen Castanbas. Also present via teleconference were Jeffry 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

Chair Richko reported that the Council will return to in-person meetings at the Highlands Council office in Chester in May. Chair Richko also asked for a moment of silence to honor the lives lost and shattered, and those fighting in the war in the Ukraine.

EXECUTIVE DIRECTOR’S REPORT

Ms. Plevin highlighted the following updates and staff activities:

Economic Sustainability Plan Update

Ms. Plevin announced that the rollout of the Highlands Region Economic Sustainability Plan is complete. A copy of the report was distributed electronically to municipal, county and state officials, planning professionals, non-profits and other constituent audiences who would benefit from the information and tools available in the Plan. Highlands Council staff plan to conduct a webinar to discuss the details of the plan and its conclusions and highlight ways that municipalities can utilize this information to support their own local economic development efforts. Additional outreach efforts will

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include meetings with county economic development groups and a panel discussion at the upcoming Planning and Redevelopment Conference in June. The Steering Committee is currently being re-organized to lead ongoing implementation efforts and just met this past Tuesday to discuss next steps.

Website Update

Ms. Plevin reported that Highlands Council staff have begun coordinating with the Office of Information Technology and Creative Services in Trenton, on a complete overhaul of the Highlands Council website. This website was originally developed in 2005 and has seen only minor updates over the years. The update project will involve a comprehensive content inventory and audit, development of an entirely new content architecture, and a graphic redesign including the addition of a mobile-friendly interface. Stakeholder and user input will help inform throughout the process. We anticipate reaching out to Council members, non-profits, other agencies, and the public for input. The project is expected to be completed by the end of this year.

Plan Conformance Updates

For Municipal Petitions

Ms. Plevin announced that today the Council will consider a Petition for Plan Conformance for Union Township, Hunterdon County. This is a milestone and the result of several outreach meetings with the Township over the last few years.

Ms. Plevin also noted that at an upcoming meeting, Council will consider an Amended Petition for Highlands Center Designation for Clinton Township, Hunterdon County. The Amended Petition went out for a 30-day public comment period on April 5th and comments will be accepted through May 5th.

Lastly, Ms. Plevin reported that Bloomingdale Borough, Passaic County has completed their Economic Development Plan.

Municipally-Issued Exemptions

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

- Byram Township, Sussex County: one exemption #4
- Hardyston Township, Sussex County: two exemption #5s
- Ringwood Borough, Passaic County: one exemption #2
- Sparta Township, Sussex County: 29 exemption #5s

Project Review Updates

Ms. Plevin reported that Highlands Council staff completed two (2) Highlands Applicability Determination (HAD) Exemption #11 reviews:

- In West Milford (Passaic County), SUEZ Water New Jersey applied to NJDEP for a HAD #11 for the construction of an addition to an existing well and a treatment building that will house new equipment for the treatment of Per- and polyfluoroalkyl substances (PFAS) chemicals. Highlands Council staff finding is that the project is exempt and consistent with goals of the Regional Master Plan (RMP).
- In Vernon Township and Byram Township in Sussex County, Independence Township in Warren County and West Milford Township in Passaic County - SUEZ Water New Jersey applied to NJDEP for a HAD #11 to complete upgrades to existing well sites including the design of PFAS

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and nitrate removal treatment systems, as well as improvements to ancillary equipment, such as well pumps, that may be impacted by the treatment improvements. Highlands Council staff finding is that the project is exempt and consistent with the RMP.

Preservation Area Consistency Review

- In West Milford, The Land Conservancy of New Jersey is seeking a Highlands General Permit #1 to conduct restoration efforts that will improve water quality and enhance wildlife habitat at the West Brook II Preserve. Highlands Council staff review found the project consistent with the RMP. Ms. Plevin made note that this project is taking place on a parcel formerly known as “the Kugler property,” which the Highlands Council helped to preserve using federal Highlands Conservation Act grant money.

Planning Area Exemption Reviews

- In Parsippany-Troy Hills, Morris County, the Board of Fire Commissioners District 5 is proposing to demolish a circa 1984 fire station and replace it with a two-story, 10,335 square-foot fire station. Highlands Council staff finding: Highlands Act exemption #4 is applicable.
- In the Town of Clinton, Hunterdon County, DJV Holdings is proposing site improvements on Main Street. Planned activities include additions to an existing building on the first and second floors, along with site improvements including adding an ADA-compliant entrance. Highlands Council staff review for possible Exemption #4 is pending.
- In Rockaway Township, Morris County, Above Grid Solar Carport 2020 LLC is proposing to install an array of solar carports across the Morristown Medical Center Health Pavilion parking lot. These structures will be interconnected with the local utility and generate renewable energy while acting as shade structures for parked cars. Highlands Council staff finding: Highlands Act exemption #4 is applicable.

Planning Area Consistency Reviews – pending

- In Pohatcong Township, Warren County, Larken Associates is proposing construction of four (4) apartment buildings and associated site improvements.
- In Hackettstown, Warren County, 7 Route 57, LLC proposes to remove all existing structures and associated improvements on two adjacent lots, and to construct a new two-story apartment building, associated parking lot, and supporting site improvements.
- In Parsippany-Troy Hills, Morris County, HAZA Bell Northeast proposes to construct a Taco Bell Restaurant with drive-thru in place of an existing restaurant/pub.

Highlands Development Credit (HDC) Updates

Ms. Plevin reported on two (2) Allocation Applications received:

- Tewksbury Township, Hunterdon County, Block 27, Lot 145.07, 5.01 acres, residential - Allocation determination: 25.25 HDCs
- Tewksbury Township, Hunterdon County, Block 27, lot 145.08, 5.01 acres, residential - Allocation determination: 25.00 HDCs

Personnel Updates

The Council has selected a candidate for the vacant Regional Planner/Land Preservation Coordinator position, and the candidate will start on Monday, April 25th. The Council posted a notice for the vacant GIS Manager position on March 31 and applications are now being accepted. Lastly, the Council posted a notice for the vacant Environmental Scientist position on April 13 and applications

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are now being accepted.

The next Council Meeting is scheduled for May 19, 2022 (in-person).

APPROVAL OF HIGHLANDS COUNCIL MINUTES OF JANUARY 20, 2022

Chairman Richko reported that at our last meeting there was some discussion regarding these minutes and the decision was made to hold the vote to approve until revisions could be made. Council members received revised minutes and had an opportunity to review. Chairman Richko asked for a motion on the Council Minutes of January 20, 2022

Member Van Abs made a motion to approve the Highlands Council Minutes of January 20, 2022. Member Holtaway seconded it.

A roll call vote was taken. The Highlands Council Minutes of January 20, 2022 were APPROVED 11-0.

APPROVAL OF HIGHLANDS COUNCIL MINUTES OF FEBRUARY 17, 2022

Chairman Richko asked for a motion on the Council Minutes of February 17, 2022

Member Visioli made a motion to approve the Highlands Council Minutes of February 17, 2022. Member James seconded it.

A roll call vote was taken. The Highlands Council Minutes of February 17, 2022 were APPROVED 11-0.

BUDGET & FINANCE COMMITTEE

Resolution – Approval of Qualification of Firms for Highlands Act Litigation to Serve for a Three-Year Period

Committee Chair Holtaway introduced the first resolution as the selection of qualified legal firms for defense of any actions against the Highlands Council. Committee Chair Holtaway added that there is a process in place for this, the Committee reviewed, and it is now passed to our Council for consideration. Committee Chair Holtaway then introduced Chief Counsel Gallagher to provide details.

Chief Counsel Gallagher reported that a Request for Qualification (RFQ) was issued for Special Counsel for Highlands Act litigation for matters falling under statute N.J.S.A. 13:20-20. The Council is required to provide legal representation to local government units located in the Highlands Region under a very specific set of circumstances. After legal review it was determined that we must be able to utilize Special Counsel under the provision if the need arises. After consulting with the Attorney General's office, it was decided to mirror their process of having a list of qualified attorneys. Our first RFQ went out on January 19, 2021, with no responses received. We re-posted the RFQ on July 22, 2021 and also distributed it to the list of firms already qualified under the Attorney General's list. We received three (3) proposals from the following firms:

- Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.
- Methfessel & Werbel

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- McManimon, Scotland & Baumann

All three (3) firms are qualified firms located in the State of New Jersey. They have a wealth of experience in different areas that are related to issues that may arise under Highlands Act litigation. It is our recommendation that we qualify all three (3) firms so that in the event of conflicts, we have other firms available to represent the local government units.

Member Dougherty asked if he could vote on this matter as one of the firms listed is employed by the Town of Morristown. Chief Counsel Gallagher responded that Member Dougherty can vote on this motion, however, when the awards are given, he should not vote on the award for that firm.

Chairman Richko asked for a motion on the resolution.

Member Holtaway moved the resolution. Member Visioli seconded it.

Council Comment

Member Dressler stated that all firms are terrific.

Chair Richko noted that Council is not currently funding these firms, and this is just in case we have a need.

Public Comment

Hank Klumpp, Tewksbury, NJ – Mr. Klumpp asked if any of the three (3) firms are on retainer and why it is happening after 18 years of the Highlands Act. Mr. Klumpp also asked if a private person can use Special Counsel. Chief Counsel Gallagher responded that we are seeking these firms to qualify them to be on a list if a need arises. They are not attorneys for us; the Attorney General's office represents the State of New Jersey. Special Counsel are attorneys appointed to represent local government units who may be sued over something in our Act if they are fully conforming under a narrow set of circumstances. Ms. Gallagher noted that we have not had to use it in the history of the Highlands Council; however, because the provision exists, we should have a list which we can go to should the need arise. Chairman Richko also noted that these firms are not to be used for landowners.

Chairman Richko asked if Council members had any additional comments.

There was no other Council discussion.

A roll call vote was taken. The resolution was APPROVED 11-0.

Resolution – Approval of Plan Conformance Grant Funding for Open Space Master Plan Update for Denville Township, Morris County

Committee Chair Holtaway introduced the resolution for Approval of Plan Conformance Grant Funding for Open Space Master Plan Update for Denville Township, Morris County. Committee Chair Holtaway commented that the more developed areas have a harder time with open space so he is in favor of assisting them. Committee Chair Holtaway introduced James Humphries for more details.

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James Humphries, Director of Planning, Science, & GIS, stated that Denville Township submitted a request for a \$15,000 grant to update their Open Space Master Plan element. Mr. Humphries added that Denville is located in both the Planning and Preservation Areas but is only conforming for the Preservation Area. The Township last updated their Open Space Plan in 2001. The Township has successfully preserved a majority of properties targeted under that old plan and there is a need to update the plan to identify new targets for preservation as well other opportunities for the use of its existing open spaces. The development of an Open Space Master Plan element is a required part of Plan Conformance under RMP Goal 1i. Mr. Humphries further added that the grant is recommended to be approved subject to the submission of a final scope of work with payment made on a reimbursement basis after submission of completed deliverables.

Chairman Richko asked for a motion on the resolution.

Member Holtaway moved the resolution. Member James seconded it.

Public Comment

Elliott Ruga, Policy & Communications Director, New Jersey Highlands Coalition – Mr. Ruga commented that it is great that Denville Township is updating their Open Space Master Plan but he does not think the Council should award this grant to a municipality that is non-conforming for the majority of the town.

Hank Klumpp, Tewksbury, NJ – Mr. Klumpp commented that since Denville Township is updating their Open Space Master Plan how about Denville Township consider sending districts.

Council Comment

Member Sebetich found Mr. Ruga's objections serious, and he thinks Denville Township will update its Open Space Master Plan without the \$15,000; therefore, he will vote against the measure.

Member Dressler asked if we have attempted to use this grant funding as leverage to have the Township rethink their conformance.

Ms. Plevin responded that municipalities that we work with cover a wide range - spanning from those that are completely in conformance and work with us on many projects -- to those that are not particularly interested in conformance. Ms. Plevin added that if a particular municipality is not interested (at that moment in time) in conformance, we have outreach meetings, attend their public meetings, or sit down with the appropriate elected officials/professionals to talk through their concerns/priorities in order to develop relationships with the communities. Ms. Plevin also stated that we continue to have an on-going conversations regarding the benefits of working with the Highlands Council, the benefits of conformance, and the benefits of our technical assistance. Ms. Plevin continued that the grants the Council provides further the goals of the Highlands Act and the RMP. Our experience has shown many times that when the municipality has a positive experience working with us, this can move the needle considerably toward conformance. Ms. Plevin concluded that the bottom line is "does this project advance the goals of the Highlands Act and RMP?" Clearly by updating Denville Township's Open Space Master Plan, it does.

Member Dressler had an issue with rewarding a municipality that is not conforming.

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There was continued discussion on this topic.

Mr. Humphries noted that Denville Township is conforming for the Preservation Area, so they are meeting their legal obligations. Mr. Humphries added that the Township is also working with Council in developing a Water Use & Conservation Management Plan (WUCMP) for the entire town and that implements the RMP. Although they may not be conforming for the Planning Area, they are meeting their legal obligations in relation to the Highlands Act and are doing things to implement the RMP and since they are a conforming town, they are required by the RMP to update and adopt an Open Space Master Plan.

Member Van Abs recalls dealing with this issue with Denville having only 7 acres in the Preservation Area. Member Van Abs asked where we should draw that line and he was not sure we should be making that call. Member Van Abs would be more concerned if Denville was looking for \$100K to redo their entire master plan. The master plan revision should be part of a Plan Conformance process, but when it comes to an Open Space Plan, that is a legitimate expense for us to further the potential for landowners to have their land purchased by their municipality.

Member James added that the more we work with municipalities, the more they trust the people at the Council, etc.

Member Francis commented that the RMP is a good planning document. Member Francis added what matters is that they are moving towards our goals and objectives and doing good planning.

(Note: During the roll call vote Member Dressler decided to change his vote to "yes" due to his colleagues' comments regarding good planning

A roll call vote was taken. The resolution was APPROVED 10-1..

PLAN CONFORMANCE COMMITTEE

Resolution – Approval of the Petition for Plan Conformance for the Township of Union, Hunterdon County

Committee Chair Dressler reported that the Plan Conformance Committee had a meeting to discuss Union Township's Petition for Plan Conformance. Committee Chair Dressler complimented the staff on this Petition.

At this time, Highlands Council Principal Planner Corey Piasecki gave a presentation on Union Township's Petition for Plan Conformance. The presentation may be found on the Council's website: www.nj.gov/njhighlands/about/calend/2022/apr21/ppt_mtg042122_uniontwp.pdf

Chairman Richko asked for a motion on the resolution.

Member Dressler made a motion. Member James seconded it.

Council Comment

There was no Council comment.

Public Comment

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Julia Somers, New Jersey Highlands Coalition – Ms. Somers commented that she was delighted Union Township is finally going through this process. Ms. Somers added Union Township has the largest reservoir in the State of New Jersey and it is incredibly important that this moves forward.

Hank Klumpp, Tewksbury, NJ – Mr. Klumpp asked if there are any receiving districts in Union Township. Mr. Piasecki responded that Union Township is conforming in the Preservation Area only. Mr. Piasecki added that the Township has limited development potential within that region and there are no Transfer of Development Rights (TDR) receiving districts proposed at this time.

Council Comment

Member Van Abs clarified that Union Township has the 3rd largest reservoir which is Spruce Run Reservoir.

There was no further Council discussion.

A roll call vote was taken. The resolution was APPROVED 11-0.

Member Dougherty left the meeting at 4:54pm.

OTHER BUSINESS

Resolution – Approval of Submission of 2021 Annual Report

Chairman Richko asked for a motion on the resolution.

Member James made a motion. Member Van Abs seconded it.

Council Comment

There was no Council comment.

Public Comment

David Shope, Lebanon Township – Mr. Shope commented that the issue of having no receiving areas for TDR credits should be mentioned in the Annual Report.

Council Comment

There was no Council discussion.

A roll call vote was taken. The resolution was APPROVED 10-0.

OLD/NEW BUSINESS:

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Chairman Richko asked Council members if they had any old or new business before Member Vohden's proposed motion. There was no old/new business to discuss.

CONSIDERATION OF MOTION BY COUNCILMEMBER VOHDEN FOR THE COUNCIL TO REVIEW THE HIGHLANDS TDR PROGRAM

Chairman Richko noted that on April 14 Council member Vohden submitted a proposed motion. Chairman Richko asked Member Vohden to introduce his motion.

Member Vohden made a motion for Council to review its Transfer of Development Rights (TDR) Program to conform to our Regional Master Plan Objective 7B7g, comply with The State TDR Act, specifically, N.J.S.A. 40:55D-155-156 & 157, and follow the direction of the Highlands TDR Technical Report, page 37, that all require a periodic review of the TDR Program.

Chairman Richko asked for a second. There was no second. The motion DID NOT PASS.

Council Comment

Member Vohden commented that in his opinion Council is ignoring the statutes by not passing this motion.

Chairman Richko disagreed with Member Vohden's statement.

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

Public Comment

Hank Klumpp, Tewksbury, NJ – Mr. Klumpp spoke about Senator Smith's promise to compensate landowners.

Michael Ilardi – Mr. Ilardi spoke about Highlands Development Credits and if there is any funding for the credits. Chairman Richko asked Mr. Ilardi to call Ms. Plevin to respond to his question.

David Shope, Lebanon Township – Mr. Shope spoke about the lack of compensation for landowners and the Council's response to Member Vohden's motion.

Chair Richko asked for a motion to adjourn the meeting.

Member James made a motion to adjourn the meeting. Member Visioli seconded it. All were in favor. The meeting was adjourned at 5:12pm.

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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: 6/16/2022

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant

Vote on the Approval of 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			√			