

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

PRESENT

JIM RILEE)	CHAIRMAN
KURT ALSTEDE)	COUNCIL MEMBERS
TRACY CARLUCCIO)	
TIMOTHY P. DOUGHERTY)	
MICHAEL R. DRESSLER)	
MICHAEL FRANCIS)	
ROBERT HOLTAWAY)	
BRUCE JAMES)	
JAMES MENGUCCI)	
CARL RICHKO)	
JAMES VISIOLI)	
ROBERT G. WALTON)	

ABSENT

JACK SCHRIER)	VICE CHAIRMAN
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CALL TO ORDER

Chairman Rilee called the 109th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:09 pm.

ROLL CALL

Roll call was taken. Vice Chairman Schrier was absent. All other Council Members were present.

OPEN PUBLIC MEETINGS ACT

Mr. Borden announced that the meeting was called 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 13, 2011

Mr. Richko introduced a motion to approve the minutes and Mr. Dougherty seconded it. Mr. Schrier was absent. Messrs. Mengucci and Visioli abstained. All other members present voted to approve. The minutes were APPROVED 10-0, with two abstentions.

APPROVAL OF HIGHLANDS DEVELOPMENT BANK BOARD MINUTES OF OCTOBER 27, 2011

Mr. Francis introduced a motion to approve the Highlands Development Bank Board Minutes and Mr. James seconded it.

Ms. Swan noted that the specific dollar amounts of the values of the Highlands Development Credits for each property were added to the minutes.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

Mr. Schrier was absent. All members present voted to approve. The minutes were APPROVED 12-0.

CHAIRMAN'S REPORT

Chairman Rilee reiterated that two offers were made to property owners for 10 and 43 acres at the Highlands Development Credit Bank Meeting and the dollar amount offered for those properties were added to the minutes. Chairman Rilee reported that a Budget and Finance Committee meeting took place before Council's meeting today and Councilmember Holtaway will report on it. Chairman Rilee also reminded Ms. Swan about a secure area on the website for members to go to for information. Ms. Swan responded that Council staff can do that and this will allow members to access this site before meetings to view the materials. Chairman Rilee further reported that the deadline submission for fourth round HDC applications is December 29, 2011.

REPORT OF THE BUDGET AND FINANCE COMMITTEE

Mr. Holtaway reported that the Budget and Finance Committee met to discuss the FY2012 General Operating Budget. He reported that the FY2012 budget was discussed and is flat. He noted that while there have been personnel changes the budget for FY2012 is within .06 cents of the FY2011 budget. The Committee recommends approval of the budget as presented.

Consideration of Resolution – Approval of the Highlands council FY2012 General Operating Budget

Chairman Rilee introduced the Resolution to approve the FY2012 General Operating Budget and opened for public comments.

Public Comment

David Shope, owns property in Lebanon Township – Mr. Shope asked if the salary line includes benefits. Chairman Rilee responded that benefits are not included in the salary line item. Mr. Shope made a request for the benefits information to be provided to him. Ms. Swan responded that the Department of Treasury will need to be contacted to get that information.

Mr. James made a motion to approve the 2012 General Operating Budget. Mr. Dougherty seconded it.

Council Discussion

Mr. Walton questioned line items on the budget which pertain to conference and training; subscription, membership, and license; and miscellaneous operating expenses. Ms. Swan noted that these expenses are primarily related to the professional licenses of the Highlands Council's planners, engineers and attorneys. Mr. Walton reported that the line item related to food or refreshments for Council members was eliminated by his vote and other votes of the Hunterdon County Freeholders and as such he felt that he could not support such an inconsistency and he would vote no on the budget being considered today but he did not expect others to follow such a position.

There was Council discussion regarding personnel issues. Mr. Visioli asked if Council is in a position to meet the demands coming up in the first half of 2012 and could the existing staff handle the workload. Chairman Rilee responded that with the assistance of the Governor's Office a part-time position was made a full-time position and the position of a Manager of Communications is to be formally approved to be backfilled. Chairman Rilee also reported that the proposed budget includes full funding for staff positions including the recent resignation and the one anticipated

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

retirement. Mr. Holtaway added that Council is in a transition period now that the Council is implementing the RMP and that skill sets are slightly different and changing.

Ms. Swan added that Council is already fully approved for 23 full-time positions and the proposed staff is simply backfilling existing positions so the budget does not include any new full time positions. The Council will also need to seek authority to replace and backfill an important position for the TDR program to focus on TDR receiving zones as well as other duties such as development application reviews and for the retirement of Dr. Van Abs. Ms. Swan recognized Dr. Van Abs in the audience and thanked him for his commitment and excellent service to the Council and spoke of his expertise in the areas of water supply and wastewater management. Mr. Visioli asked if all these positions are in the budget and Mr. Holtaway responded that these positions are in the budget. Ms. Swan further added that Council staff is required to get authority since 2006 there has been a statewide hiring freeze so we are required to get a waiver to backfill those positions. She noted that those two positions will have to go through the waiver process. Mr. Visioli asked how confident does Council feel that those waivers will be approved. Chairman Rilee was unable to answer that question currently. Ms. Swan informed Council that she will keep the Council updated on the backfilling of the positions.

All members present voted on the Resolution by roll call. The Resolution was approved by a vote of 11-1.

Consideration of Resolution – Approval of 2012 Annual Meeting Schedule

Chairman Rilee introduced the Resolution and opened for public comment.

Public Comment

There was no public comment.

Mr. Holtaway made a motion to approve the 2012 Annual Meeting Schedule. Mr. Walton seconded it.

Council Discussion

There was no Council Discussion.

All members present voted on the Resolution by roll call. The Resolution was approved by a vote of 12-0.

EXECUTIVE DIRECTOR'S REPORT

Chairman Rilee asked for Ms. Swan's Executive Director Report. Ms. Swan gave a brief summary update to the Council on Plan Conformance Petition reviews. She reported that to date 65 Petitions have been submitted from 60 Municipalities and 5 Counties. Of these, 53 have been deemed administratively complete and have been posted to the Highlands Council website (including 2 Counties). Of these, 33 municipal Petitions and 2 county Petitions have been approved as follows: Townships – Bethlehem, Byram, Chester, Denville, Franklin (Warren), Green, Hardyston, Holland, Lebanon, Lopatcong, Mahwah, Mount Olive, Oxford, Pohatcong, Rockaway, Sparta, Tewksbury, Washington (Morris) & West Milford; Boroughs – Alpha, Bloomingdale, Bloomsbury, Califon, Glen Gardner, Hampton, High Bridge, Kinnelon, Lebanon, Ringwood and Wharton; Towns – Clinton, Hackettstown and Phillipsburg; and Counties – Passaic and Somerset.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

At today's meeting, the Council will be considering four Petitions for Plan Conformance. Washington Township (Warren) is conforming for the Planning and Preservation Areas. The other three, Allamuchy Township, Bedminster Township and Borough of Mount Arlington are conforming for the Preservation Area only. Should the Council approve these four Petitions, the Council will have approved 37 of 60 municipal Petitions (62% of the total Petitions and nearly 73% of the complete Petitions). There are eight Draft Consistency Reports in Municipal Review: Townships of Alexandria, Montville, Randolph, Roxbury, Parsippany-Troy Hills and Union; and the Borough of Oakland and Far Hills.

Ms. Swan then showed maps which represented the Plan Conformance progress since December 16, 2010 through today's meeting. Ms. Swan noted that today's Petitions, if approved, will take effect after the Governor's review period of the Council's minutes and showed the map that would result from that action. Ms. Swan showed that the map reflected those municipalities with lands in the Preservation Area lands where conformance is mandatory and in Planning Area where it is voluntary.

Ms. Swan then summarized a chart on the implementation of approved Petitions:

Implementation Status	#	Municipalities (New in bold)
Total Approved Municipalities	33	
Planning Area Petition Ordinance	8	Alpha Borough, Bethlehem Township, Byram Township, Clinton Town, Hampton Borough, High Bridge Borough, Holland Township, Lebanon Borough
Master Plan Re-examination Report	2	High Bridge Borough, Holland Township
Checklist Ordinance	1	Holland Township
Environmental Resource Inventory	4	Byram Township, Califon Borough , High Bridge Borough, Lopatcong Township
Highlands Master Plan Element	2	Califon Borough, High Bridge Borough
Highlands Land Use Ordinance	1	High Bridge Borough

Ms. Swan then provided an update on the Plan Conformance Grant Program and showed the average amounts requested for reimbursement by participating municipalities. Ms. Swan advised the Highlands Council that on average the expenses of the seven Modules are very close to the projected base amounts, with certain exceptions, as set forth in the following chart.

<u>Towns</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,839	73
Module 2	\$10,000	\$ 6,784	72
Module 3	\$ 7,500	\$15,305	64
Module 4	\$ 2,000	\$ 3,141	64
Module 5	\$ 2,500	\$ 6,887	56
Module 6	\$ 5,000	\$ 4,455	53
Module 7	<u>\$ 8,000</u>	<u>\$ 7,449</u>	50

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

Module Subtotal	\$50,000	\$57,860	
Municipal Response Costs	\$ 8,000	\$ 6,544	28
Plan Conformance Cost	\$58,000	\$64,404	

Ms. Swan also reported the average award amounts for implementation plans based on approved Highlands Implementation Plan and Schedules:

<u>Implementation Plans</u>	<u>Average Amount</u>	<u>Number</u>
Highlands Center/Redevelopment Plan	\$22,105	19
Sustainable Economic Development Plan	\$16,786	14
Wastewater Management Plan	\$3,547	32
Stream & Lake Protection Plan	\$30,585	27
Water Use & Conservation Management Plan	\$58,000	15
Habitat Conservation & Management Plan	\$17,217	23
Agriculture Retention/Farm Preservation Plan	\$11,033	15

Council Comments

Mr. Richko commented that the Council's approval of Plan Conformance Petitions is averaging 3-4 towns per meeting and asked what is coming up next. Ms. Swan responded that some towns ask for extensions so it depends on the towns but that Council staff anticipates that next year should complete the Petitions that are in-house. Mr. Richko commented on the staff situation and its effects on the implementation for Plan Conformance. Ms. Swan responded that without a full complement of staff Council would have to adjust the work schedule and reprioritize. Chairman Rilee commented that all government agencies have been depleted by the State's fiscal crisis.

Mr. Francis reported that the Strategic State Plan is in draft form and driven by development and redevelopment. Mr. Francis noted that a component of the State Plan is focus on TDR receiving zones and sending zones. Mr. Francis recommended that Council take a look at the draft State Plan which could change numerous aspects of planning in the State and Council needs to be prepared. Mr. Walton stated that his County had a presentation on the draft State Plan and he was encouraged by it.

Mr. Walton commented that perhaps the Council should review the RMP and postpone Plan Conformance activities and instead focus on revisions to the RMP to encourage economic development. He noted that the existing economic conditions required a reexamination of the seven year old RMP. Mr. Walton also suggests that Council staff visit towns so municipalities understand the benefits of TDR similar to the visits Council staff made on the benefits of Plan Conformance. Ms. Carluccio responded that the RMP was not a plan to stop growth but a plan to protect water resources. She noted that the need to protect water resources was valid when the RMP was adopted and is still valid now and that sustainable growth is a goal of the RMP. Ms. Carluccio added that it would be a mistake to put off Plan Conformance in the middle of implementation and that this is backwards thinking in her opinion. Mr. Walton commented that there has been a significant economic change since the RMP was adopted. Mr. Alstede added that he voted not to adopt the RMP because there was a requirement in the Act that the RMP must include a resource assessment which determines the amount of human development and activity the Highlands Region can sustain while maintaining the ecological values as well as a required cash flow timetable. Mr. Alstede further stated that he does not think these assessments have been completed. Chairman Rilee moved on to the next item on the agenda.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

Public Hearing and Consideration of Resolution – Petition for Plan Conformance by Borough of Mount Arlington, Morris County

Chairman Rilee introduced the Resolution. Ms. Swan acknowledged Mayor Arthur Ondish from Mount Arlington. Ms. Swan also recognized Chris Ross, Senior Resource Management Specialist and Highlands Council Staff Liaison, for her work on Mount Arlington Borough's Petition. Ms. Swan also recognized Keri Benscoter, Resource Management Specialist who has filled in during Ms. Ross's absence for vacation.

Mr. Walton temporarily left the meeting at 4:44pm.

Ms. Swan presented background statistics as they pertain to Mount Arlington Borough:

- Incorporated: 1890
- Population 2010: 5,713
- Land Area: 1,795 acres / 2.8 sq. mi.
- Preserved Lands: 562 acres (31%)
- Total Forest: 603 acres (34%)

Mr. Walton returned to the meeting at 4:46pm

Ms. Swan also presented significant Highlands statistics and background statistics as they pertain to Mount Arlington Borough:

- Planning Area Lands: 1,663 acres – 93%
- Preservation Area Lands: 132 acres – 7%
- Existing Community Zone: 1,130 acres – 63% (Roads 11%)
- Protection Zone: 472 acres – 26%
- Highlands Open Water Protection: 1,013 acres – 57%
- Forest Resource Area: 964 acres – 54%
- Critical Wildlife Habitat: 471 acres – 26%

Ms. Swan presented photographs of Mount Arlington so the Council could focus on the character of the community and the past planning and protection initiatives of the Borough. Ms. Swan then presented background statistics and information for Mount Arlington Borough.

**Mount Arlington Borough
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	526	15	30.1%
Commercial (Retail)	72	3	4.2%
Industrial & Transportation & Utilities	77	0	4.3%
Agriculture (Crops & Plantations)	2	0	0.1%
Recreational Lands (Public & Private)	42	0	2.3%
Other Urban or Built-Up Land	80	11	5.1%
Subtotal Developed Lands	799	29	46.1%

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

Mixed Forest	388	94	26.9%
Shrub & Scrub	13	0	0.7%
Mixed Wetlands	32	9	2.3%
Barren Lands	20	0	1.1%
Water	410	0	22.9%
Subtotal Natural Lands	864	103	53.9%
Total	1,663	132	100.0%

Ms. Swan noted that Mount Arlington's Petition is for the Preservation Area which encompasses approximately 132 acres (7% of the municipality). The majority of the Preservation Area is either already developed or is owned and preserved by the Borough. The Preservation Area consists of preserved municipal open space, a former landfill that is the subject of a Highlands Redevelopment Area study, an existing public school, developed residential properties (likely to be exempt from the Highlands Act), and approximately 12 acres of developable land divided among six parcels, the largest of which is slightly more than 5 acres in area.

Ms. Swan then showed the land use ordinance maps for the Borough. Ms. Swan reported that a Comment/Response Document included detailed response to all public comments received and was posted on the website. Ms. Swan provided an overview of the RMP consistency analysis as follows:

Petition Requirements	Consistent with the RMP	Specific Issues
Modules 1-2 Municipal Build-Out Report	X	None
Module 3 Housing Element/Fair Share Plan	Deferred	None
Module 4 Environmental Resource Inventory	X	None
Module 5 Highlands Element	X	None
Module 6 Land Use Ordinance	Waived	Due to Preservation Area Lands
Module 7 Petition for Plan Conformance	X	None

Ms. Swan further noted that a waiver is appropriate for the Module 6 Highlands Land Use Ordinance due to the unique circumstances of Mount Arlington Borough's Preservation Area. There will be very limited proposals for development in this area that do not qualify for Highlands Act exemptions. Therefore, use of the complete model Highlands Land Use Ordinance is not justified. To address the possibility of such development, the Highlands Council will condition approval of the Borough's Petition upon adoption of a Highlands Preservation Area Checklist Ordinance. In this manner, we will address the requirements of the Highlands Act at minimal public expense and limit the Borough's future administrative obligations.

Ms. Swan reported that the public comment period on Mount Arlington's Petition opened October 28, 2011 and closed November 14, 2011. Public Comments were received from:

- **Erica Van Auken**, on behalf of the New Jersey Highlands Coalition (supported Petition and appreciates the Borough's initiative to implement the Green Building/Sustainability/Alternative Energy Plan.)

Ms. Swan then summarized the Staff Recommendations for Mount Arlington Borough's Petition for Plan Conformance that it be approved with the following conditions:

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

- Adoption of Checklist Ordinance
- Adoption of Completed Highlands Environmental Resource Inventory and Master Plan Element
- Compliance with Fair Housing Act
- Water Use and Conservation Management Plan
- Habitat Conservation and Management Plan
- Sustainable Economic Development Master Plan Element
- Lake Restoration Plan
- Green Building & Environmental Sustainability Master Plan Element

Chairman Rilee opened the meeting to Mayor Ondish for comments.

Public Comments

Art Ondish, Mayor of Mount Arlington – Mayor Ondish complemented Highlands staff and stated that it has been a pleasure to work with Executive Director Swan. Mayor Ondish commented that the Borough is pretty much built out. He thought it would be great to do something in the brownfield site in the Preservation Area and the Borough is in the process of exploring some solar programs. Mayor Ondish has no issues with the Council and that his experience with the Council staff has always been helpful in seeking solutions to figure out how we can make it work. Mayor Ondish is looking at the possibility of conforming in the Planning Area and is open minded in that area and moving forward with the Council.

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken supports Mount Arlington Borough's Petition for Plan Conformance and encourages the Borough to consider conformance in the Planning Area.

Mr. James made a motion on the Resolution for Mount Arlington Borough. Mr. Holtaway seconded it.

All members present voted on the Resolution by roll call. The Resolution was approved by a vote of 12-0.

At this time commemorative photos were taken as Chairman Rilee presented a framed certificate regarding the approval of the Plan Conformance Petition to Mayor Arthur Ondish.

Public Hearing and Consideration of Resolution – Petition for Plan Conformance by the Township of Washington, Warren County

Chairman Rilee introduced the Resolution. Ms. Swan acknowledged Mayor Samir Elbassiouny of Washington Township; Scarlett Doyle, Planner; and William Gleba, Municipal Engineer. Ms. Swan also recognized Keri Benscoter, Resource Management Specialist and Highlands Staff Liaison for Washington Township.

Ms. Swan presented background statistics as they pertain to Washington Township:

- Incorporated: 1849
- Population 2010: 6,651
- Land Area: 11,547 acres / 18 sq. mi.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

- Preserved Lands: 2,667 acres (23%)
- Total Forest: 4,308 acres (37%)

Ms. Swan also presented significant Highlands statistics as they pertain to Washington Township:

- Planning Area Lands: 7,953 acres – 69%
- Preservation Area Lands: 3,595 acres – 31%
- Conservation Zone: 4,685 acres – 41%
- Protection Zone: 4,085 acres – 35%
- Existing Community Zone: 2,325 acres – 20% (Roads 4%)
- Forest Resource Area: 4,043 acres – 35%
- Agricultural Priority Area: 3,708 acres – 32%
- Highlands Open Water Protection: 3,528 acres – 30%

Ms. Swan presented photographs of Washington Township so the Council could focus on the character of the community and the past planning and protection initiatives of the Township. Ms. Swan then presented background statistics and information for Washington Township.

**Washington Township
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	2,012	373	20.6%
Commercial (Retail)	209	10	1.9%
Industrial & Transportation & Utilities	101	12	1.0%
Agriculture (Crops & Plantations)	2,972	566	30.6%
Recreational Lands (Public & Private)	298	49	3.0%
Other Urban or Built-Up Land	378	8	3.3%
Subtotal Developed Lands	5,969	1,018	60.5%
Mixed Forest	1,122	2,188	28.7%
Shrub & Scrub	325	41	3.2%
Mixed Wetlands	465	291	6.6%
Barren Lands	37	4	0.4%
Water	34	52	0.7%
Subtotal Natural Lands	1,984	2,576	39.5%
Total	7,953	3,595	100.0%

Ms. Swan then showed the land use ordinance maps for the Township and reported that a Comment/Response Document included detailed response to all public comments received and was posted on the website. Ms. Swan provided an overview of the RMP consistency analysis as follows:

Petition Requirements	Consistent with the RMP	Specific Issues
Modules 1-2 Municipal Build-Out Report	X	None
Module 3 Housing Element/Fair Share Plan	X	None
Module 4 Environmental Resource Inventory	X	None

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

Module 5 Highlands Element	X	Study Conceptual Centers
Module 6 Land Use Ordinance	X	None
Module 7 Petition for Plan Conformance	X	None

Conceptual Highlands Centers

Ms. Swan noted that working with Washington Township officials and professionals, the following three Highlands Center concepts adjacent to Washington Borough were developed which may be formally approved by the Highlands Council after further analysis:

- Historic Port Colden
- Washington – South Rt. 31 Corridor
- Brass Castle

Ms. Swan further noted that a Feasibility Study grant is recommended to examine infrastructure availability (specifically wastewater), redevelopment opportunities, and potential for transfer of development rights and resource protection. Ms. Swan displayed a map where centers may be considered. No firm boundaries have been proposed and areas are the focus of future feasibility analyses.

Ms. Swan then showed a movie representing a ‘fly over’ of Washington Township. The movie offered an opportunity to focus on the landscape of the Township, the infrastructure and the built and natural environments. Ms. Swan also showed maps which displayed a proposed RMP Update which is factual update information being considered with this Petition. The RMP Update corrects the GIS mapping for the Preservation Area boundary on one lot in Washington Township to be consistent with the statutory description of the Preservation Area in the Highlands Act. This information has been shared with NJDEP. Ms. Swan thanked Municipal Engineer William Gleba for bringing this factual update to Council’s attention.

The public comment period on Washington’s Petition opened November 7, 2011 and closed November 21, 2011. Public Comments were received from:

- Helen Heinrich (NJ Farm Bureau), supporting Right to Farm and Agricultural Retention Planning for the municipality as well as potential TDR receiving zones in conceptual Highlands Centers.
- David Peifer (ANJEC), supporting the petition however expressing concerns regarding the conceptual Highlands Centers.
- Erica Van Auken (NJ Highlands Coalition), supporting the petition and praising the municipality for conforming for both the Preservation and Planning Areas. She has expressed concern for the three conceptual Highlands Center designations.
- Richard Cotton (Hawk Pointe Golf Club), states that the community is supportive of the conceptual Highlands Center for Washington South.
- Carl Bisgaier (Bisgaier, Hoff LLC), asks for clarification of the Highlands Council’s review process of Housing Element and Fair Share Plans.
- Comments in support of the conceptual centers were received from residents and business owners of Washington Township: Alan & Patricia Lowcher; Michael Hozerall; Bryce Cotton and Monica Perini.

Ms. Swan then summarized the Staff Recommendations for Washington Township’s Petition for Plan Conformance that it be approved with the following conditions:

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

- Adoption of Planning Area Petition Ordinance
- Adoption of Checklist Ordinance
- Adoption of Completed Highlands Environmental Resource Inventory, Master Plan Element (incl. Land Use Inventory), Land Use Ordinance
- Compliance with Fair Housing Act (Plan Submitted for Certification)
- Feasibility Study of Conceptual Highlands Centers
- Wastewater Management Plan
- Agriculture Retention Master Plan Element
- Water Use and Conservation Management Plan
- Habitat Conservation and Management Plan
- Stream Corridor Protection & Restoration Plan

Chairman Rilee opened the meeting to Mayor Elbassiouny for comments.

Public Comments

Samir Elbassiouny, Mayor of Washington Township – Mayor Elbassiouny thanked Ms. Swan and her team who did a great job. Mayor Elbassiouny stated that at first he was personally against the Highlands Act because he felt it was unjust. Mayor Elbassiouny commented that he feels the Township is coming a long way on how we can maximize our municipality and hopes the landowners will get the compensation due to them. Mayor Elbassiouny appreciates the opportunity to get educated on our municipality and the resources available. Mayor Elbassiouny had encountered some opposition but feels Plan Conformance is the right thing to do for the residents and that the Township can continue to build with moderation and to help to improve the Township. Mayor Elbassiouny appreciated the Council's time.

Monique Purcell, Department of Agriculture – Ms. Purcell fully supports this Petition. Ms. Purcell asked Council to provide the Land Use Ordinance document which refers to the Township's Right to Farm ordinance and the RMP Update document.

David Shope, owns property in Lebanon Township – Ms. Shope noted that this application is exceptionally better than any others he has heard for towns opting in the Planning Area. He did not see any mechanism for transferring TDR even within the town from the effected landowners. It would be good to explore the possibilities and come up with a TDR plan to increase the density so those people who have been affected negatively by this Act get a shot at compensation.

Richard Cotton, Developer of Hawk Pointe Golf Course – Mr. Cotton thanked the Council and staff. Mr. Cotton commented that he comes from a unique perspective in the early 90's he was appointed to serve on a Highlands committee which met in Ringwood. He is the third generation in the Township and he is involved in the community and agriculture community. He owns about 600 acres, over 500 is in preservation and was the first application in both Warren County and in Washington Township. Mr. Cotton commented that the Highlands Act works and applauds the staff for the journey that they go on and he sometimes sits in that same position. He noted that his commitment to the community is long and he would like to have the opportunity to invite the Council to host a summit, if appropriate, at Hawk Pointe because of the initiative done for the past 14 years. It is really the trend and the working ideas of the Highlands in a compromise. Mr. Cotton

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

looks forward to working with the Highlands Council and municipality to make it a true working model within the Highlands.

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken commented that the Coalition supports this Petition. The Coalition does have serious concerns on the center designation and are eager to see what the results the feasibility study will reveal and are waiting to be reassured that the Township's natural resources will be fully protected.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey is pleased that the Township is conforming in the Preservation and Planning Areas. She also looks forward to the study on the proposed centers and feels the real center is Washington Borough. A study was done a few years ago (Scenic Byway) for Route 57 to get state designation so need to be real sensitive for new development in that area.

Mr. James made a motion to approve the Resolution for Washington Township. Mr. Mengucci seconded it.

Council Discussion

Mr. Francis asked if the conceptual center designation would be a receiving zone and Ms. Swan concurred that the Township needs to examine wastewater infrastructure capacity in order to determine if it is appropriate as a TDR receiving zone. Ms. Carluccio commented that the feasibility study is well worth our investment to see if the Township is able to be a TDR receiving zone.

All members present voted on the Resolution by roll call. The Resolution was approved by a vote of 12-0.

At this time commemorative photos were taken as the Chairman Rilee presented a framed certificate regarding the approval of the Plan Conformance Petition to Mayor Samir Elbassiouny.

Public Hearing and Consideration of Resolution – Petition for Plan Conformance by the Township of Allamuchy, Warren County

Chairman Rilee introduced the Resolution. Ms. Swan noted that Mayor Cote was unable to make the meeting today so no representatives are present. Ms. Swan recognized Chris Ross, Senior Resource Management Specialist and Highlands Council Staff Liaison for Allamuchy Township. Ms. Swan also recognized Keri Bencoter, Resource Management Specialist who has filled in during Ms. Ross's absence.

Ms. Swan presented background statistics as they pertain to Allamuchy Township:

- Incorporated: 1873
- Population 2010: 4,323
- Land Area: 12,793 acres/ 19.99 sq. mi.
- Preserved Lands: 7,723 acres (60%)
- Wetlands: 3,180 acres (25%)
- Total Forest: 7,697 acres (59%)

Ms. Swan also presented significant Highlands statistics and background statistics as they pertain to Allamuchy Township:

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

- Planning Area Lands: 7,695 acres – 59%
- Preservation Area Lands: 5,278 acres – 41%
- Protection Zone: 6,603 acres – 51%
- Conservation Zone: 5,596 acres – 43%
- Existing Community Zone: 499 acres – 3.9% (Roads 2.1%)
- Forest Resource Area: 9,999 acres – 77%
- Critical Wildlife Habitat: 8,245 acres – 64%
- Highlands Open Water Protection: 7,531 acres – 58%

Ms. Swan presented photographs of Allamuchy Township so the Council could focus on the character of the community and the past planning and protection initiatives of the Township . Ms. Swan then presented background statistics and information for Allamuchy Township.

**Allamuchy Township
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	755	117	6.7%
Commercial (Retail)	32	7	0.3%
Industrial & Transportation & Utilities	98	77	1.4%
Agriculture (Crops & Plantations)	1,947	280	17.2%
Recreational Lands (Public & Private)	139	59	1.5%
Extractive Mining	8	0	0.1%
Other Urban or Built-Up Land	85	38	0.9%
Subtotal Developed Lands	3,063	578	28.1%
Mixed Forest	2,157	3,373	42.6%
Shrub & Scrub	177	197	2.9%
Mixed Wetlands	2,210	969	24.5%
Barren Lands	22	2	0.2%
Water	65	159	1.7%
Subtotal Natural Lands	4,632	4,700	71.9%
Total	7,695	5,278	100.0%

Ms. Swan then showed the land use ordinance maps for the Township. Ms. Swan reported that a Comment/Response Document included detailed response to all public comments received and was posted on the website. Ms. Swan provided an overview of the RMP consistency analysis as follows:

Petition Requirements	Consistent with the RMP	Specific Issues
Modules 1-2 Municipal Build-Out Report	X	None
Module 3 Housing Element/Fair Share Plan	X	None
Module 4 Environmental Resource Inventory	X	None
Module 5 Highlands Element	X	None
Module 6 Land Use Ordinance	X	None

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

Module 7 Petition for Plan Conformance	X	None
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Ms. Swan commented that in regard to RMP updates mentioned in Washington Township's Petition addressed corrections to the Preservation Area boundary, in this case and because this has been an issue in the past, there were RMP Updates requested for developed areas within Allamuchy and some updates did occur which made land use capability zones change within the Planning Area portion of the municipality. The corrections were based on factual information.

Ms. Swan reported that the public comment period on Allamuchy Township's Petition opened November 14, 2011 and closed November 28, 2011. Public Comments were received from:

- Helen Heinrich (NJ Farm Bureau), supporting funding for an Agricultural Retention Plan for the municipality, and raising concern about specific Right to Farm language.
Ms. Swan noted that a meeting will be set up after Council's January meeting to address the numerous issues brought up regarding Agriculture Retention Plan. The meeting will be set up with representatives from the NJ Farm Bureau and Department of Agriculture.
- Erica Van Auken (NJ Highlands Coalition), supporting the Petition and funding for Stream Restoration Planning, and recommending that the municipality consider conforming for the Planning Area as well.

Ms. Swan then summarized the Staff Recommendations for Allamuchy Township's Petition for Plan Conformance that it be approved with the following conditions:

- Adoption of Checklist Ordinance
- Adoption of Completed Highlands Environmental Resource Inventory, Master Plan Element, and Land Use Ordinance
- Compliance with Fair Housing Act (Plan Submitted for Certification)
- Water Use and Conservation Management Plan
- Habitat Conservation and Management Plan
- Stream Corridor Protection & Restoration Plan
- Agriculture Retention Master Plan Element
- Lake Restoration Plan

Chairman Rilee opened the meeting to public comments.

Public Comments

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken commented that the Coalition supports this Petition and encourages Allamuchy Township to consider conforming in the Planning Area.

Helen Heinrich, New Jersey Farm Bureau – Ms. Heinrich appreciates and looks forward to meeting with the Council staff regarding the language in the land use ordinance regarding the Right to Farm Act and to clarify what the municipality can do in the future regarding zoning.

Mr. Richko made a motion on the Resolution for Allamuchy Township. Mr. Carluccio seconded it.

Council Discussion

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

There was discussion led by Mr. Alstede on whether the Land Use Ordinance for Allamuchy was consistent with the Right to Farm Act and the RMP. It was confirmed that this issue was clarified in the Highlands Land Use Ordinance. Ms. Swan explained that all documents are in draft form as they are subject to change as they go through the MLUL process for adoption and that the Council staff will see the document to be adopted and make sure that it is consistent with the RMP and the Right to Farm Act. Ms. Swan emphasized that a meeting will be scheduled with the Farm Bureau after the January Council meeting to go over the details of the Land Use Ordinance language regarding the Right to Farm Act to respond to any questions and concerns. Mr. Borden stated that draft Highlands land use ordinance has a specific provision that the Right to Farm Act supersedes local ordinances and inconsistent local ordinances must be changed at the local level through a public process. There was additional discussion regarding the matter regarding whether it was appropriate to approve the Petition and the Council was assured that staff will work with a municipality to develop an ordinance that is consistent with the Right to Farm Act and the RMP.

All members present voted on the Resolution by roll call. The Resolution was approved by a vote of 10-0

Public Hearing and Consideration of Resolution – Petition for Plan Conformance by the Township of Bedminster, Somerset County

Mr. Holtaway recused himself from this Resolution as Mayor of Bedminster Township.

Mr. Dressler left the meeting at 5:46pm.

Chairman Rilee introduced the Resolution. Ms. Swan recognized Mayor Robert Holtaway of Bedminster Township. Ms. Swan also recognized Judy Thornton, Principal Planner and Highlands Council Staff Liaison for Bedminster Township. She explained that Bedminster is currently conforming for only the Preservation Area but had examined their own Ordinances to compare to RMP requirements as they are a leader in land preservation and have protections such as FAR ordinances to protect resources.

Mr. Mengucci temporarily left the meeting at 5:45pm

Ms. Swan presented background statistics as they pertain to Bedminster Township:

- Incorporated: 1798
- Population 2010: 8,165
- Land Area: 16,875 acres/ 26.4 sq. mi.
- Preserved Lands: 3,971 acres (24%)
- Total Forest: 6,823 acres (40%)

Mr. Mengucci returned to the meeting at 5:48pm.

Ms. Swan also presented significant Highlands statistics and background statistics as they pertain to Bedminster Township:

- Planning Area Lands: 15,866 acres – 94%
- Preservation Area Lands: 1,009 acres – 6%
- Conservation Zone: 11,767 acres – 70%
- Protection Zone: 3,040 acres – 18%
- Existing Community Zone: 1,262 acres – 7.5% (Roads 4.5%)

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

- Agricultural Priority Area: 15,369 acres – 91%
- Highlands Open Water Protection: 8,332 acres – 49%
- Forest Resource Area: 4,160 acres – 25%

Ms. Swan presented photographs of Bedminster Township so the Council could focus on the character of the community and the past planning and protection initiatives of the Township. Ms. Swan explained how Bedminster had worked with the Council on the model Highlands Municipal Build-Out analysis to test it and as a result of their partnership the model was revised to its current state. She thanked Bedminster for being a leader in this work. Ms. Swan then presented background statistics and information for Bedminster Township.

**Bedminster Township
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	1,775	86	11.0%
Commercial (Retail)	220	25	1.5%
Industrial & Transportation & Utilities	255	13	1.6%
Agriculture (Crops & Plantations)	5,745	226	35.4%
Recreational Lands (Public & Private)	570	19	3.5%
Other Urban or Built-Up Land	385	29	2.5%
Subtotal Developed Lands	8,951	398	55.4%
Mixed Forest	4,157	382	26.9%
Shrub & Scrub	1,394	185	9.4%
Mixed Wetlands	1,002	39	6.2%
Barren Lands	153	0	0.9%
Water	209	5	1.3%
Subtotal Natural Lands	6,915	612	44.6%
Total	15,866	1,009	100.0%

Ms. Swan then showed the land use ordinance maps for the Township. Ms. Swan reported that a Comment/Response Document included detailed response to all public comments received and was posted on the website. Ms. Swan provided an overview of the RMP consistency analysis as follows:

Petition Requirements	Consistent with the RMP	Specific Issues
Modules 1-2 Municipal Build-Out Report	X	None
Module 3 Housing Element/Fair Share Plan	X	Received Substantive Certification in 2009
Module 4 Environmental Resource Inventory	X	None
Module 5 Highlands Element	X	None
Module 6 Land Use Ordinance	X	None
Module 7 Petition for Plan Conformance	X	None

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

Ms. Swan reported that the public comment period on Bedminster Township's Petition opened October 25, 2011 and closed November 8, 2011. Public Comments were received from:

- Helen Heinrich, on behalf of the New Jersey Farm Bureau (supported Petition and the emphasis on Agricultural Retention/Farmland Preservation Plan)
- Erica Van Auken, on behalf of the New Jersey Highlands Coalition (supported Petition and resource planning)

Ms. Swan then summarized the Staff Recommendations for Bedminster Township's Petition for Plan Conformance that it be approved with the following conditions:

- Adoption of Checklist Ordinance
- Adoption of Completed Highlands Environmental Resource Inventory, Master Plan Element, and Land Use Ordinance
- Continued Compliance with Fair Housing Act (Plan Certified in 2009)
- Resource and Economic Planning. Funding priorities for:
 - Sustainable Economic Development Planning
 - Agriculture Retention Master Plan Element
 - Habitat Conservation and Management Plan
 - Stream Corridor Protection & Restoration Plan

Chairman Rilee opened the meeting to Mayor Holtaway for comment.

Public Comments

Robert F. Holtaway, Mayor of Bedminster Township – Mayor Holtaway complimented Council staff on doing an excellent job working with the Township. Mayor Holtaway commented that Bedminster is a leader in planning and land and farmland preservation with court approved 10 acre zoning.

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken commented that the Coalition supports this Petition and encourages Bedminster Township to consider conforming in the Planning Area.

Mr. Visioli made a motion to approve the Resolution for Bedminster Township. Mr. Richko seconded it.

All members present voted on the Resolution by roll call. The Resolution was approved by a vote of 10-0, with one abstention.

At this time commemorative photos were taken as the Chairman Rilee presented a framed certificate regarding the approval of the Plan Conformance Petition to Mayor Robert Holtaway.

Chairman Rilee opened the meeting to public comments.

Public Comments

David Shope, owns property in Lebanon Township – Mr. Shope commented that earlier he expressed concern regarding the October 27, 2011 Highlands Development Credit Bank approving the purchase of the development rights for two properties which were previously rejected at the

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 1, 2011

HDC prior meeting. Mr. Shope believes that the Highland Council's approval of this action is contrary to New Jersey Law C.4:1C-31. Mr. Shope plans to contact the Governor's office to see if he is correct. Mr. Shope also commented on the EPA water report and where the water is distributed omitting New Jersey. Mr. Shope submitted Statewide Policy 1: Equity which he believes has had no resolutions to date.

Mr. Richko made a motion to adjourn the meeting. Mr. Holtaway seconded it. The meeting was adjourned at 5:59pm.

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: 1/20/12

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 Mengucci		✓	✓			
Councilmember Richko			✓			
Councilmember Sebetich					✓	
Councilmember Tfrank					✓	
Councilmember Visioli			✓			
Councilmember Vohden					✓	
Councilmember Walton			✓			
Chairman Rilee			✓			

PUBLIC COMMENTS SUBMITTED

383 Penwell Road
Port Murray, NJ 07865
December 1, 2011

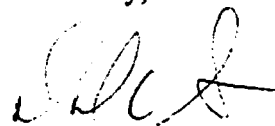
James Rilee, Chairman
New Jersey Highlands Council
100 North Road
Chester, NJ 07930

Dear Chairman Rilee,

Action taken at the October 27, 2011 meeting of the Highlands Development bank approved the purchase of the development rights for Block 15, Lot 11.03, Franklin Twp, Warren County and Block 40, Lot 33.01 and 109, Washington Twp, Warren County, thereby reversing the position taken on these parcels at the prior Highlands Development bank meeting.

I believe that the Highlands Council's approval of the actions on these parcels is contrary to New Jersey Law C.4:1C-31. Therefore, I am asking you to defer approval of the Highlands Development bank actions on these parcels until you can get a written opinion from an outside legal source, such as the State's Attorney General.

Yours Truly,

A handwritten signature in black ink, appearing to read 'D. Shope', with a stylized flourish at the end.

David C. Shope

Statewide Policy 1: Equity

It is the position of the State Planning Commission that a basic policy in implementation of the State Plan is to achieve the public interest goals of the State Planning Act while protecting and maintaining the equity of all citizens. It is the intent of the State Planning Commission that the benefits and burdens of implementing the State Plan should be equitably distributed among all citizens of the State. Where implementation of the goals, policies and objectives of the State Plan affects the reasonable development expectations of property owners or disproportionately affects the equity of other citizens, agencies at all appropriate levels of government should employ programs, including for example compensation, that mitigate such impacts to ensure that the benefits and burdens flowing from implementation of the State Plan are borne on an equitable basis.

In contributing to the development of the State Plan, many groups have expressed concerns about "equity." Urban center residents, for example, feel that their equity has been eroded through urban disinvestment and resource allocation policies favoring new development in suburban and rural areas. Suburban residents, on the other hand, feel that they have lost equity via overcrowded highways, loss of nearby open space, rising taxes, and other negative growth impacts, the result, they feel, of inadequate planning, underfunding of infrastructure and other factors. Rural residents, particularly farmland owners and other land owners, feel that their equity is eroded when the use or intensity of use of their land is constrained to the extent that it lowers the value of their property and, in particular, jeopardizes the economic viability of farming operations. These groups have expressed their desire that the Plan address these issues.

It is the position of the State Planning Commission that the State Plan should neither be used in a manner that places an inequitable burden on any one group of citizens nor should it be used as a justification for public actions that have the effect of diminishing equity. It is also the position of the Commission that the achievement, protection and maintenance of equity be a major objective in public policy decisions as public and private sector agencies at all levels adopt plans and policies aimed at becoming consistent with the State Plan.

The Commission urges individuals and groups that have concerns about equity to use all avenues to assure that their concerns are considered in governmental actions and to prevent inappropriate application, or abuse, of the State Plan. Legally, the State Plan is a statement of State policy formulated to guide planning, not regulation. Public sector agencies and private sector organizations such as lending institutions, should not use designations and delineations contained in the State Plan to determine the market value of particular tracts or parcels of land. Accordingly, such uses of the State Plan are inappropriate because it is not designed to regulate and should not be applied to the future use or intensity of use of specific parcels of land. Both public and private sector agencies are cautioned that direct application of the State Plan to specific parcels of land may result in inequitable distribution of the benefits and burdens of public action.