

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF SEPTEMBER 15, 2011

PRESENT

JIM RILEE)	CHAIRMAN
JACK SCHRIER)	VICE CHAIRMAN
KURT ALSTEDE)	COUNCIL MEMBERS
TRACY CARLUCCIO)	
TIMOTHY P. DOUGHERTY)	
MICHAEL FRANCIS)	
ROBERT HOLTAWAY)	
BRUCE JAMES)	
JAMES MENGUCCI)	
CARL RICHKO)	
JAMES VISIOLI)	

ABSENT

MICHAEL R. DRESSLER)
ROBERT G. WALTON)

CALL TO ORDER

Chairman Rilee called the 107th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:05 pm.

ROLL CALL

Roll call was taken. Council Members Michael R. Dressler and Robert G. Walton were 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 on the Highlands Council website.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF MINUTES OF AUGUST 3, 2011

Mr. Richko introduced a motion to approve the minutes and Mr. Dougherty seconded it. Messrs. Dressler and Walton were absent. Messrs. Mengucci and Schrier abstained. All other members present voted to approve. The minutes were APPROVED 9-0, with two abstentions.

CHAIRMAN'S REPORT

Chairman Rilee reported that, as discussed with Council Members, the policy issues which were scheduled to be discussed at this meeting have been put on hold so Council can review the details a little further. Ms. Swan will send information to members on solar and wind legislation and policy

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in the state to prepare for future discussions. Chairman Rilee noted that the next Council Meeting will be as scheduled on October 13, 2011 at 1:00pm. He informed members that an email will be forthcoming to confirm the rest of the year's meetings.

Councilmember Alstede commented that he would like to see the time of the October meeting changed as he may not be able to attend. Members discussed the time but decided to leave the meeting time as noticed.

Chairman Rilee reappointed Council Member Carluccio, who is the existing Chair, and appointed Council Members Dressler and Francis to the Audit Evaluation Committee their responsibility is to issue a request for proposals for an auditor and to recommend an auditor to the Audit Committee. Chairman Rilee also reported that the Audit Committee would consist of Council Members Alstede, Dougherty and Walton. The Audit Committee will be chaired by Council Member Walton.

Ms. Swan reported that Beth Gates from New Jersey Water Supply Authority will remain as an advisor to the Audit Committee.

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, 28 municipal Petitions and 2 county Petitions have been approved as follows: Townships – Bethlehem, Byram, Chester, Denville, Franklin (Warren), Green, Holland, Lopatcong, Mahwah, Mount Olive, Oxford, Pohatcong, Rockaway, Tewksbury, Washington (Morris) & West Milford; Boroughs – Alpha, Bloomsbury, Bloomingdale, Califon, Glen Gardner, Hampton, High Bridge, Kinnelon & Lebanon. Wharton; Towns – Clinton, Hackettstown; and Counties - Passaic and Somerset.

At today's meeting, the Council will be considering Petitions for Plan Conformance from Sparta and Hardyston Townships (both conforming for the Preservation Area only). Ms. Swan reported should the Council approve these two Petitions; the council will have approved 30 of the 60 municipal Petitions (50% of the total Petitions and nearly 60% of the complete Petitions). Ms. Swan then noted upcoming Petitions for meetings of the Highlands Council are Townships of Lebanon, Bedminster, Parsippany-Troy Hills and Washington (Warren), Ringwood Borough and the Town of Phillipsburg.

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 conformance is mandatory and in Planning Area it is voluntary.

Ms. Swan provided an overview of the Plan Conformance steps that each municipality must take before the Council considers their petition. This is the process designed by the Council and the results of each step are reported out to the Council to ensure that the municipality's Petition is

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consistent with the Regional Master Plan. When approving the Petition the Council provides the municipality with the required next steps to ensure that future planning is in conformance. Modules 1 & 2: The Highlands Act required that the Council undertake a build out analysis to determine the future capacity for growth while protecting the resources of the region. The Highlands Municipal Build-Out Report uses a Limiting Factor Analysis to examine Land-Based, Resource-Based, and Utility-Based Capacities. 72 build-out reports have been completed. Module 3: The Housing Element and Fair Share Plan is a required element of Plan Conformance; however, conditional approvals are being issued pending the New Jersey Supreme Court's review of the growth share rules. 72 Fair Share Plans have been completed. Module 4: The Highlands Environmental Resource Inventory (ERI) describes and illustrates Highlands Resources, Resource Areas, and Special Protection Areas. The Highlands Council prepared ERIs for municipalities. The Highlands ERIs have been revised to include updated data and mapping. This new information will be provided to all 88 Highlands municipalities. Module 5: The Highlands Element for the Municipal Master Plan incorporates RMP Goals & Objectives into local planning and provides basis for effectuation of RMP. The Highlands Council provided a template for the municipalities and each municipality has the opportunity to tailor the document to meet the unique circumstances of their particular town. 62 Highlands Elements have been submitted. Updated data and exhibits are being provided. Module 6: The Highlands Land Use Ordinance sets forth regulatory provisions that protect Highlands Resources and effectuate the policies, goals and objectives of RMP at the local level. Again, the Council provided a template document for the municipality to use. 56 Highlands Land Use Ordinances have been submitted. Similar to the ERI, updated exhibits are being provided. Module 7: The Petition includes a Resolution, Self-Assessment Report, list of Current Planning Documents and Highlands Implementation Plan & Schedule. Of the 60 municipal Petitions, 51 have been deemed complete.

Mr. Alstede temporarily left the meeting at 4:14pm

Ms. Swan also reported the Plan Conformance Update for all mapping information. The Council committed to providing the most up to date information to all towns and to continually update that information. The updated data, figures and exhibits are essential to ensure that the municipal ERI, Highlands Element and Land Use Ordinance are based upon the most current information. The major data updates include:

- 2009 County Parcels (updated parcels for ordinance mapping)
- Highlands 2008 Light Detection and Ranging (LIDAR) Topographic Data
- 2007 NJDEP Land Use Land Cover (updated numerous maps)
- NJDEP Landscape Project Version 3.0
- Highlands Municipal Build-Out - Preserved Lands
- Highlands Municipal Build-Out - Utility Data (wastewater and water supply)
- 2006 Soil Survey Geographic Database (for Warren County)
- State Historic and Preservation Office 2010 Historic Properties, Districts and Archeological grids
- 2009 NJDEP Known Contaminated Sites list.

Information will be provided to each town. Further, the Council's interactive mapping on the website will be updated, it is anticipated that this will be completed before the end of the calendar year. Ms. Swan added that in the development of the Regional Master Plan the Highlands Council

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used the 2002 Land Use Land Cover Data. The Council has updated base data layers using the 2007 Land Use Land Cover Data. The chart below was displayed to see the updates from 1972 to 2007. A map was also displayed for a more visual look.

Land-Use/Land-Cover Type Acres 2007 to 1972

Land Use Type	2007	2002	1995	1986	1972	Change in Acres	Percent Change
AGRICULTURE	105,979	109,678	120,152	142,154	158,712	-52,733	-33%
FOREST	391,754	399,260	405,983	408,353	462,022	-70,267	-15%
URBAN	232,126	219,229	201,015	187,740	98,386	133,741	136%
WETLANDS	88,454	89,216	92,184	82,961	111,410	-22,956	-21%

Mr. Alstede returned to the meeting at 4:18pm.

Ms. Swan reported that Municipalities are now starting to receive updated map sets. They also are receiving revised ERI text, reflecting the updated information. With these new products, approved municipalities can begin the adoption process. Municipalities with approved Petitions were previously notified to defer action until the maps were provided, to avoid having to revise adopted documents. Petition documents will include the new map sets and revised documents. The new GIS data will be available for download soon, and will be added to the Interactive Mapping program.

Ms. Swan then provided information on the implementation of approved Petitions:

Bethlehem – Planning Area Petition Ordinance

Byram – Planning Area Petition Ordinance, Highlands ERI, and Wastewater Management Plan

Califon – Highlands ERI and Master Plan Highlands Element

High Bridge – Planning Area Petition Ordinance, Master Plan Re-examination Report, Master Plan Highlands Element, Highlands ERI and Highlands Area Land Use Ordinance

Holland – Master Plan Re-examination Report

Lopatcong –Highlands ERI

Passaic County – Highlands ERI and Master Plan Highlands Element, introduced Land Development and Land/Facilities Regulations.

Ms. Swan told the Council that she and Tom Borden had attended the meeting in Passaic County where the County Freeholders, including Freeholder Bruce James, introduced Highlands Land Development and Land/Facilities Regulations.

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She congratulated Passaic County and their staff on being the leaders amongst the counties for meeting the requirements of the Highlands Act. She also 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	\$15,343	62
Module 4	\$ 2,000	\$ 3,141	63
Module 5	\$ 2,500	\$ 6,884	54
Module 6	\$ 5,000	\$ 4,450	53
Module 7	\$ 8,000	\$ 7,492	50
Module Subtotal	\$50,000	\$59,933	
Municipal Response Costs	\$ 8,000	\$ 7,441	20
Plan Conformance Cost	\$58,000	\$65,344	

Public Hearing and Consideration of Resolution – Petition for Plan Conformance by Sparta Township, Sussex County

Chairman Rilee introduced the Resolution. Ms. Swan acknowledged Sparta Township's representative present at the meeting: David Troast, Township Manager. Ms. Swan also recognized James Humphries, Principal Planner and Highlands Council Staff Liaison.

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

- Incorporated: 1845
- Population (2009 est.): 19,225
- Land Area: 28,823 acres / 38.78 sq. mi.
- Preserved Lands: 5,888 acres
- Wetlands: 2,994 acres
- Total Forest: 14,096 acres
- Farmland: 1,227 acres

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

- Planning Area Lands: 13,335 acres – 54%
- Preservation Area Lands: 11,488 acres – 46%
- Protection Zone – 18,970 acres – 76%
- Existing Community Zone – 2,997 acres – 12% (Roads 4%)
- Conservation Zone – 1,815 acres – 7%
- Highlands Open Water Protection – 14,870 acres – 60%
- Agricultural Resource Area – 4,229 acres – 17%
- Agricultural Priority Areas – 2,294 acres – 9%

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- Special Environmental Zone: 858 acres – 3%

**Sparta Township
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	3,398	1,604	20.2%
Commercial (Retail)	351	27	1.5%
Industrial & Transportation & Utilities	241	360	2.4%
Agriculture (Crops & Plantations)	1,031	101	4.6%
Recreational Lands (Public & Private)	381	10	1.6%
Extractive Mining	207	19	0.9%
Other Urban or Built-Up Land	422	163	2.4%
Subtotal Developed Lands	6,031	2,283	33.5%
Mixed Forest	3,996	7,351	45.7%
Shrub & Scrub	429	54	1.9%
Mixed Wetlands	1,645	1,327	12.0%
Barren Lands	123	60	0.7%
Water	1,111	413	6.1%
Subtotal Natural Lands	7,304	9,205	66.5%
Total	13,335	11,488	100.0%

Ms. Swan then showed a movie representing a ‘fly over’ of Sparta 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 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	
Module 3 Housing Element/Fair Share Plan	X	
Module 4 Environmental Resource Inventory	X	
Module 5 Highlands Element	X	
Module 6 Land Use Ordinance	X	
Module 7 Petition for Plan Conformance	X	

Ms. Swan noted that the public comment period for Sparta Township’s Petition for Plan Conformance opened August 12, 2011 and closed August 30, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Public comments were provided by the following individuals/entities:

- Helen H. Heinrich, on behalf of the New Jersey Farm Bureau
- Erica Van Auken, on behalf of the New Jersey Highlands Coalition

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

- Adoption of Checklist Ordinance

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- Adoption of Completed ERI, Highlands Land Use Ordinance
- Compliance with Fair Housing Act
- Sustainable Economic Development Plan
- Agriculture Retention Plan
- Habitat Conservation and Management Plan
- Stream Corridor Protection & Restoration Plan
- Green Building/Environmental Sustainability Element

Mr. Holtaway made a motion on the Resolution for Sparta Township. Ms. Carluccio seconded it.

There were no Council Comments.

Public Comments

David Troast, Sparta Township Manager – Mr. Troast commented that it has been a long road and he thanked the Council for their consideration. Mr. Troast also commented that Sparta Township is committed to proper land development and have recognized the need to comply with the laws and thus was conforming for the Preservation Area. Mr. Troast further commented that he received a phone call from a major landowner in the Presentation Area concerned about equity issues and asked Council to continue to weigh that in all Council's decisions to make these landowners whole. Mr. Troast stated that he has a good working relationship with staff but has concern when Preservation Area issues spill into the Planning Area where there is a need to develop. Mr. Troast is excited to take this next step and continue the process to foster continued relationship in making Sparta and New Jersey a great place to live.

Tom Collins, Township Planning Board Attorney – Mr. Collins echoed what Mr. Troast said and urges Council to put their planning hats on as to the Planning Area especially in Sparta and Hardyston Township's case and that the Council recognize already existing developed properties and approved development in the Planning Area that should be categorized as Existing Community Zone on the Highlands maps. As the Highlands Council is updating their data, he stated that some data has been corrected but some has not. Mr. Troast urges Council to update the maps and the RMP to address the above issues.

Helen Heinrich, New Jersey Farm Bureau – Ms. Heinrich stated that her comments will also apply to Hardyston Township. Ms. Heinrich appreciates the attention that the Council Staff and towns are addressing to the agriculture retention plan and hope a module for how to develop the plan will be coming along. Ms. Heinrich commented that she is very pleased that the wording in connection to Section 10.3 of the land use ordinance has been revised regarding the definition of farm and how to handle agriculture development. Ms. Heinrich also was pleased to see the implementation of approved petition towns and hopes notices are posted appropriately.

All members present voted on the Resolution by roll call. The Resolution was approved by a vote of 11-0.

At this time commemorative photos were taken as Chairman Rilee presented a framed certificate regarding Plan Conformance to David Troast, Township Manager. Ms. Swan recognized the work

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of James Humphries, Principal Planner and Highlands Staff Liaison for Sparta and Hardyston Townships.

Public Hearing and Consideration of Resolution – Petition for Plan Conformance by Hardyston Township, Sussex County

Chairman Rilee introduced the Resolution. Ms. Swan acknowledged Hardyston Township's representatives present at the meeting: Marianne Smith, Township Manager and Tom Collins, Township Planning Board Attorney. James Humphries is the liaison for Hardyston and Ms. Swan recognized his work.

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

- Incorporated: 1798
- Population (2009 est.): 8,325
- Land Area: 20,885 acres / 32.6 sq. mi.
- Preserved Lands: 9,790 acres
- Wetlands: 3,448 acres
- Total Forest: 14,552 acres

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

- Planning Area Lands: 8,278 acres – 40%
- Preservation Area Lands: 12,607 acres – 60%
- Protection Zone: 14,745 acres – 70.5%
- Conservation Zone: 3,655 acres – 17.5%
- Existing Community Zone: 1,924 acres – 9% (Roads 3%)
- Highlands Open Water Protection: 12,895 acres – 62%
- Forest Resource Area: 18,132 acres – 87%
- Conservation Priority Areas: 5,795 acres – 28%
- Special Environmental Zone: 122 acres - 0.6%

**Hardyston Township
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	950	809	8.4%
Commercial (Retail)	118	43	0.8%
Industrial & Transportation & Utilities	132	153	1.4%
Agriculture (Crops & Plantations)	1,090	104	5.7%
Recreational Lands (Public & Private)	596	109	3.4%
Extractive Mining	241	0	1.2%
Other Urban or Built-Up Land	235	13	1.2%
Subtotal Developed Lands	3,361	1,230	22.0%
Mixed Forest	2,555	8,985	55.3%
Shrub & Scrub	604	119	3.5%
Mixed Wetlands	1,605	1,812	16.4%

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Barren Lands	84	2	0.4%
Water	72	456	2.5%
Subtotal Natural Lands	4,920	11,373	78.0%
Total	8,281	12,603	100.0%

Ms. Swan then showed a movie representing a ‘fly over’ of Sparta 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 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	
Module 3 Housing Element/Fair Share Plan	X	
Module 4 Environmental Resource Inventory	X	
Module 5 Highlands Element	X	
Module 6 Land Use Ordinance	X	
Module 7 Petition for Plan Conformance	X	

Ms. Swan reported that the public comment period for Hardyston Township’s Petition for Plan Conformance opened August 12, 2011 and closed August 30, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Public comments were provided by the following individuals/entities:

- Helen H. Heinrich, on behalf of the New Jersey Farm Bureau
- Erica Van Auken, on behalf of the New Jersey Highlands Coalition

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

- Adoption of Checklist Ordinance
- Adoption of Completed ERI, Highlands Element and Land Use Ordinance
- Compliance with Fair Housing Act (substantive certification granted)
- Water Use and conservation Management Plan
- Agriculture Retention Plan
- Habitat Conservation and Management Plan
- Stream Corridor Protection & Restoration Plan

Mr. Dougherty made a motion on the Resolution for Hardyston Township. Mr. Holtaway seconded it.

There were no Council Comments.

Public Comments

Marianne Smith, Township Manager – Ms. Smith thanked the Highlands Staff and feels Hardyston Township’s goals compliment the RMP as it relates to the Preservation and Planning

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Area. Ms. Smith echoed the comment made by Mr. Troast to develop the Planning Area in a responsible and efficient way and maintain that Preservation Area according to the goals the Council has established.

Tom Collins, Township Planning Board Attorney – Mr. Collins echoed earlier comments as well as those by Ms. Smith. Mr. Collins noted that the Planning Area in Hardyston has a very significant village area (Crystal Springs and golf courses) and Hardyston uses different techniques to preserve open space called mid-zoning (cluster or averaging option) and the Planning Area is important to Hardyston because it allows for economic development. Mr. Collins urged Council to update the RMP to reflect areas as Existing Community Zones that are developed or approved for development. Mr. Collins also commented that planning needs to have two sides, preservation and planning for growth especially in times of economic decline. The RMP is used by the NJDEP to determine issues for sewer service area indirectly related to the Council. Mr. Collins concluded that by updating the RMP it could eliminate inter-governmental disagreements which are costly to have.

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken commented that the Coalition supports Hardyston's Petition but questioned why Hardyston did not apply for a Highlands Center Designation specifically for the Crystal Springs development. The village center is community with sustainable potential and the township and developer in conjunction with the Council could use a guiding hand for this development and their Planning Area.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey commented that she wished Hardyston applied for Highlands Center Designation and taken advantage of the skills and abilities of the Highlands Council staff to conform in their Planning Area as well. Ms. Frey commented that Byram Township had a very good experience and to have multiple eyes and planners would have been very helpful. Ms. Frey is afraid that some places in the Highlands are being slowly overcome by residential and other development that is not really the right vision for the Highlands region or the vision of the Legislature that passed the Act.

All members present voted on the Resolution by roll call. The Resolution was approved by a vote of 11-0.

At this time commemorative photos were taken as Chairman Rilee presented a framed certificate regarding Plan Conformance to Marianne Smith, Township Manager.

Resolution – Authority For Highlands Plan Conformance and Highlands Project Review

Chairman Rilee introduced the Resolution. Chairman Rilee also commented that the Council has not taken action on this Resolution for the last few meetings and action now would extend the ability for the Highlands Council staff to continue with the process that has been established for the next 6 months. Chairman Rilee stated that there have been a couple of comments received by members and it would be worthwhile to hear concerns and comments especially for new members so Council can pay attention if the Resolution is passed and the authority extended it for the next six months.

Mr. Dougherty made a motion on the Resolution. Ms. Carluccio seconded it.

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Council Discussion

Mr. Alstede has felt for a long time that these delegations should be accomplished through a consent resolution that Council would approve at each meeting to have an accounting of the items that Council specifically delegates to the Executive Director. Mr. Alstede noted that Council should have the ability to review and make formal approval and this Resolution takes away the authority that was mandated by the Legislature.

Ms. Carluccio commented that a lot of work is done by the staff day in and day out and the Executive Director oversees that work and Council has functioned very well trusting the oversight by the Executive Director of those items that do not rise to the level of actual hands on involvement by the Council. Council Members in their various capacities work with staff that they authorize to handle such matters and understand that similar trust in those whom Council delegates to be in charge of the management of the day-to-day decisions that come up as a matter of course is necessary. Ms. Carluccio commented that she has never once been surprised or displeased with decisions that have been carried out by Council's Executive Director and continues to have trust in the process. Ms. Carluccio advised and encouraged Council in support of the Resolution to make the workload manageable so Council can pay attention to the important things like the implementation of the RMP and the Plan Conformance process.

Mr. Schrier commented that he agreed with both Council Members Alstede and Carluccio. Council does trust the staff but Council also likes to verify and there is an opportunity to review all those decisions. Mr. Schrier commented that the Executive Director is always forthcoming and available for questions at anytime and providing information to Council.

Mr. Visioli commented that it is Council's responsibility to delegate, to follow up, to challenge, and to get feedback from staff. Mr. Visioli has had no problems with the Highlands Council staff. The Executive Director has fielded many questions of his and he feels very comfortable with that whole attitude of the staff seen by the Council.

Mr. Holtaway commented that Council is not shy about challenging anything. The Resolution is reviewed every six months or before and there is a lot of work that has to be done and he did not think Council wanted to put more time in at meetings as the work is done well. Mr. Holtaway does not feel Council needs to micromanage the process.

Mr. Francis commented "if it isn't broke don't fix it." Mr. Francis commented that he is happy with the staff and further commented that for a state agency, Council staff is far and above others in being professional, transparent, competent and that includes customer relations.

Mr. Mengucci complimented Council staff as being very helpful and explained that he understands the position being staff answering to a board. Mr. Mengucci further commented that Council has to trust that they put the right person in place.

Mr. Dougherty commented that it would be a benefit to not make a change at this time so Council can understand the Act and RMP. Mr. Dougherty also commented that communication with the Executive Director is never an issue and that is one of the things that he would consider and that it would be an issue if it was lacking.

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Mr. Richko agreed with what everyone had stated. Mr. Richko commented that Council has an excellent staff.

Mr. Alstede responded that he likes to adhere to the law. The Legislature did not delegate the powers and duties to the Executive Director, the Council through the bylaws delegated the authority to the Executive Director. He asked Chief Counsel to weigh in. Mr. Borden responded that through this Resolution the Council has delegated these duties to Executive Director. Mr. Alstede further commented that if the Legislature did not want us to have the direct decision making they would not have spelled it out in the Legislation. Council decided to do it differently and that is why Mr. Alstede opposes it.

Chairman Rilee commented that Ms. Swan does what is within the policies and rules set before her and adequately supplies the information to Council. Chairman Rilee hopes to discuss with Council over the next six months or sooner certain issues similar to Hackettstown to determine if there is a way to allay concerns before the vote.

Public Comments

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken echoed the comments of Council Member Carluccio and generally support this Resolution and recognizes that the Executive Director needs certain authority for the Highlands Council business to be conducted smoothly. Ms. Van Auken further stated that the Coalition does have concerns regarding the Executive Director's authority to grant Exemption 11 and feels it should be on public record. Ms. Van Auken commented that this is not a personal reflection of the Executive Director.

David Shope, owns property in Lebanon Township – Mr. Shope spoke about his conversation with Senator Smith on the issue of land owner compensation and referred to statements the Senator had made in the past on this issue.. . Mr. Shope further commented that because of the potential of a lawsuit certain matters should be reviewed by Council instead of the Executive Director. Mr. Shope also submitted comments for himself and on behalf of Hal Danielson. Mr. Shope feels that Council should table this Resolution. Mr. Shope concurs with Council Member Alstede's comments.

Deborah Post, owns property in Chester Township – Ms. Post gave her opinion of this Resolution. Ms. Post read a prepared statement about her reasons why she believed the Executive Director should not have the authority and that Council should take the time to execute their duties. (Ms. Post's typed comments were received via mail on September 21, 2011 and are attached to these minutes.)

All members present voted on the Resolution by roll call. The Resolution was approved by a vote of 10-1.

Public Comments

Monique Purcell, Department of Agriculture - Ms. Purcell commented that it is good to see the update on how the municipalities are moving through the process and understands there is a lot of

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work getting to that point which she considers as phase 1. Ms. Purcell asked if it is possible to see a brief presentation on how phase 2 will work and what will happen.

Erika Van Auken, New Jersey Highlands Coalition – Ms. Van Auken noted that the Coalition's comments are no longer in the presentations. Chairman Rilee responded that Council receives those comments. Ms. Van Auken stated that she will not read her comments if Council is already getting them. Ms. Van Auken also commented on the thoroughness of the presentations and how helpful they are to her and other staff members of the Coalition and noted how accessible and invaluable the Highlands website is to the public. Ms. Van Auken is excited about the map updates.

Mr. Richko interjected in response to this comment to express his satisfaction at seeing the flyovers were in today's presentations and he hopes we continue with this personal attention to presentations for the municipalities.

David Troast, Sparta Township Manager – Based on the last comment, Mr. Troast invited the Council to Sparta Township so they can see what the Township has accomplished. Sparta has great places to eat, stay and a lot of fun to be had in their recreation area.

Hank Klumpp owns 150 acres in Tewksbury Township – Mr. Klumpp read his prepared comments which he submitted to Council on his recollection of the last month's meeting which was attended by his grandsons. Mr. Klumpp questioned where his 3-page handwritten comments were for last month's meeting minutes as the minutes were only a synopsis of his comments. Ms. Swan responded that all public comments received are part of the official public record and submitted to the Governor's Authority Unit and in Council's packets. Ms. Swan further stated that the public comments submitted are not duplicated for meetings due to cost but are posted on the website. Mr. Klumpp further stated that the comments on Hal Danielson are not accurate. Mr. Klumpp then presented an analogy to Council that the Resolution which Council approved giving authority to the Executive Director is similar to him giving his wife an open checkbook.

Ms. Swan commented that a full audio recording of every Council Meeting is on the website which she does not believe any other state agency provides. Mr. Klumpp responded that he is not a computer person and would like to see it in writing.

David Shope, owns property in Lebanon Township – Mr. Shope commented on certain Council members facial expressions during public comment. Mr. Shope reported that Mr. Danielson is on the verge of bankruptcy because of an investment he made on Highlands property. Mr. Shope has taken notice of the people who have been convicted, arrested or in jail that were former state legislators and claimed that their voting record on the Highlands Act was 100% in favor. Mr. Shope commented that the action on the last resolution giving the Executive Director authority is cavalier and subject to a lawsuit. Mr. Shope does not see relief for the issues he has raised for the past seven years.

Deborah Post, owns property in Chester Township – Ms. Post also commented on Council members expressions during public comment. Ms. Post then read prepared comments (subsequently mailed to us on September 19, 2011) on her recollection of last month's council meeting and the presence of police officers. Ms. Post continues to have concerns about the treatment received by the landowners due to the Highlands Act.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF SEPTEMBER 15, 2011

Chairman Rilee closed the public portion of the meeting and stated that the Council did not request the police presence at the prior Council meeting.

Mr. Holtaway made a motion to adjourn the meeting. Mr. Richko seconded it. The meeting was adjourned at 5:35pm.

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: 10/13/11

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant

**Vote of 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 Schrier	✓		✓			
Councilmember Visioli						✓
Councilmember Walton					✓	
Chairman Rilee			✓			

PUBLIC COMMENTS SUBMITTED

My name is Hank Klumpp. I own 150 acres in the Highlands Preservation Area in Tewksbury.

①
The Highlands Act and the
Highlands Council has been the subject
of conversation around my dinner
table many times. So when the
Highlands Council met in August
two of my nine grandchildren asked
to go with me. They are only 23 and
16 years old but sat in disbelief
over the whole experience. They
witnessed an elderly man who
was justly disturbed over the
frustration the past seven years
have caused having his land
values, his life investments, stolen
from him. He was also forced to
listen to a council member making
statements that were off base
and totally debatable and then
he was taken out of the room
by not one but four brave
policemen when he tried to speak
up. Then when I ran over my,
insulting, three minute time
limit, considering my loss, my
grandson gave me his three
minutes which obviously annoyed
many on the Council. However,
my grandson who is only 16 was

in disbelief when lobbyists were allowed to speak for ten minutes without being interrupted. The meeting was actually stopped to allow them to speak.

My grandsons could not believe that before the meeting began Assemblyman McKeon and Senator Smith refused when asked by a farmer to stay and listen to public comments and concerns. They had time for the rally that preceeded in honor of the anniversary of the signing of the Highlands Act seven years ago. They tried to ignore us, with Smith just saying there was no time but McKeon seemed to be deaf.

That was so rude and my grandchildren witnessed the ugly display. Was it possibly that Smith and McKeon were afraid they may be asked where the money is that they said would materialize for the Highlands theft? On March 30, 2004, they both said they were working to put together a dedicated

(3)

and guaranteed source of funding so that the Highlands, which is making a sacrifice for the rest of the state, is properly compensated. They said "We will show you the money." My grandsons felt they were both cowards and unwilling to face us or anyone else who carries a sign or wears a shirt that says "Our property values have been stolen."

Hank Klump

24 Longview Road
Lebanon, N. J. 08833
908-832-7634

Committee Meeting

of

SENATE ENVIRONMENT COMMITTEE ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE

SENATE BILL No. 1 and ASSEMBLY BILL No. 2635

(The "Highlands Water Protection and Planning Act")

LOCATION: Skylands Manor
Ringwood State Park
Ringwood, New Jersey

DATE: March 30, 2004
7:00 p.m.

MEMBERS OF COMMITTEES PRESENT:

Senator Bob Smith, Co-Chair
Assemblyman John F. McKeon, Co-Chair
Assemblyman Michael J. Panter, Co-Vice Chair
Senator Henry P. McNamara
Assemblyman Robert M. Gordon
Assemblyman Reed Gusciora
Assemblyman Louis M. Manzo
Assemblyman Guy R. Gregg
Assemblyman John E. Rooney



ALSO PRESENT:

Judith L. Horowitz
Carrie Anne Calvo-Hahn
Lucinda Tiajloff
Office of Legislative Services
Committee Aides

Kevil Duhon
Senate Majority
Committee Aide
David Eber
Assembly Majority

Thea M. Sheridan
Assembly Republican
Committee Aide

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

What I was struck by today is, that in a lot of ways, I always think that we, kind of, live the same lives, we're just in different places. I heard people -- "Yeah, I was on the zoning board, but the new administration kicked me out because I was pro-development." Someone else got up and said, "Yeah, I'm the Republican, and we're with that group." And, you know, it's the same, regardless of whatever town or city you're in, anywhere in the State of New Jersey.

The difference is that those that aren't within what we've designated to be the core -- and make mistakes -- like in my own community, in West Orange, where I'm the Mayor -- Our mistakes are translated, maybe, into a loss of the quality of life, maybe more traffic, air not as clean as it could be, probably extra taxes because of the school children that come in. And there's permutations of the debate over condos -- they're not going to have school children, we'll make money, whatever it might be. But if we make a mistake, that's where the transgression goes to, our own individual quality of life, ergo home rule.

If there are mistakes made by local government, relative to the core that's remaining, the entire State of New Jersey will suffer, not to mention Pennsylvania, New York. This implication goes beyond even New Jersey. And this is why, in a way, I pray for wisdom for all of us, as we go through this evaluative process, to make certain that we do the right thing, because we can't afford not to.

And with that, we look forward to working hard together. And thank you all, again.

———— I'm going to turn it over to Senator Smith. (applause)

SENATOR SMITH: Thank you, Chairman.

The Assembly Environment Committee and Chairman McKeon. have worked long and hard on this. And we're going to be working longer and harder. We've got a pretty hectic schedule ahead of this. But your comments tonight make all the difference in the world.

If there was one lesson tonight, it was the voice in the background from Tom Cruise, "Show me the money." (laughter) And Chairman McKeon and I pledge to you that we will show you the money. We're currently working with the Governor's Office to put together the dedicated and guaranteed source of funding so that the Highlands, which is making a sacrifice for the rest of the state, is properly compensated. We will show you the money.

And let us not lose track of the fact that this is a bill about water. It's about a lot of things, but it's the water supply for the future of the State of New Jersey. We can't have-- Are there any builders left in the room? There will be no residential housing if there's not water. There will be no building, no factories, no anything if there isn't a good, clean, sufficient water supply.

If you look at the Task Force's report, it indicated that the cost of water treatment is estimated to increase \$30 billion if we don't protect this water supply. What more do we need to know? How many times do we have to be hit in the side of the head with a 2x4? This is one of our last chances to keep New Jersey's future bright.

Now, some comments that you need to know: If you would like to supplement our record or send in comments that you'd like us to consider, please take this address: Assembly and Senate Environment Committees, State House Annex, P.O. Box--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Wait a minute.

SUBMITTED FOR CONSIDERATION BY

HAROLD DANIELSON
10 N. WOOD AVE.
LINDEN, NJ 07036

Critique of Highlands Resolution for consideration on June 16, 2011 (tabled till next meeting.) This gives the Director dictatorial powers.

1. For municipal and county Plan Conformance, provide recommendations and take actions pursuant to the planned conformance guidelines and review and issue determinations on all requests for an RMP Update to verify updated, relevant factual information.

Take actions after approval from Council.

2. For the Highlands TDR Program, review and issue HDC Allocation Determinations and execute any related documents and deeds of easement;

Only after approval from Council.

3. For federal, State, and regional agency coordination, review and issue determinations on all requests for consultation, coordination, recommendation for consistency determinations;

4. For Highlands Act exemption determinations, review and issue exemption determinations;

Only after review and approval by Council

5. For the adoption of any master plan, development regulation, or other regulation by a local government unit not in Plan Conformance, development applications submitted to and approved by local government units, the call-up of local government unit approvals, and capital and other projects of State entities and local government units, review and issue comments for determinations on these matters unless Council review this required by the Council;

All determinations must be approved by Council.

6. For all of the above, the Executive Director may make a recommendation based upon the potential impact on Highlands resources, that final agency action be taken by the Highlands Council and

And what?

Impact must be supported by non-political scientific backup.

7. For all the above, the Executive Director shall provide reports to the Highlands Council of all actions and determinations on a regular basis.

All final actions and determinations to be made with consent of Council.

8. *Submission to the Council for approval, expense reports on a monthly basis for all expenditures including all trip reports. All expenditures over \$500.00 must have prior approval by the Council. All expenses must be submitted on a Council approved form.*

9. *All staff members must record daily hours to be recorded by an electronic / mechanical recording device and be made available at Councils, request.*

10. *A task force is to be formed to look into the availability of space to be rented or given for use by the Highlands Council and its staff. The options would include underutilized state, county or municipal buildings within the confines of the Highlands.*

9-15-11 H.C. MEETING

COMMENTS ON HIGHLANDS COUNCIL PROPOSED RESOLUTION -
"AUTHORITY FOR HIGHLANDS PLAN CONFORMANCE & HIGHLANDS
PROJECT REVIEW"

2ND WHEREAS - INSERT LANGUAGE I PREVIOUSLY SUBMITTED
THAT INCLUDES SEN. SMITH'S 3-30-04 QUOTE.

7TH WHEREAS - SECTION 13 PROVIDES "THE COUNCIL MAY
USE THE STATE TDR BANK. THE COUNCIL MAY WISH TO
CHOOSE THIS OPTION TO AVOID THE INCONVENIENT APPEARANCE
OF USING THE H.C. STAFF FOR BOTH ENTITIES.

13TH WHEREAS - EXECUTIVE DIRECTOR SHOULD ONLY RECOMMEND
APPROVAL TO THE COUNCIL FOR THEIR APPROVAL. FINAL AGENCY
ACTION SHOULD ALWAYS STARTS A CLOCK FOR LITIGATION.
THEREFORE ALL MATTERS & DECISIONS THAT CONSTITUTE A
"FINAL AGENCY ACTION" & SHOULD BE MADE BY THE
COUNCIL, IN A PUBLIC MEETING.

RESOLVED -#5 ALL EXEMPTIONS THAT ARE CONTINGENT UPON
DATE OF OWNERSHIP SHOULD BE DETERMINED BY THE LOCAL
GOVERNMENTS & THEIR OFFICIALS BY SIMPLY VERIFYING DATE OF
OWNERSHIP

FURTHER RESOLVED - EXECUTIVE DIRECTOR SHOULD NOT MAKE
ANY "FINAL AGENCY ACTIONS" - SEE COMMENTS ON 13TH WHEREAS.
#2 HIGHLANDS COUNCIL SHOULD DRAW UP ITS DEEDS
OR EASEMENTS - NOT LEAVE THEM TO BE NEGOTIATED, ONE BY
ONE, BY STAFF

(1)

#4 - SEE RESOLVED #5

#6 CONFLICTS WITH FURTHER RESOLVE

#7 "ACTIONS" SHOULD BE REPLACED BY "RECOMMENDATIONS"

SUBMITTED BY:

DAVE SHOPE

383 PENWELL ROAD

FORT MURRAY, N.J. 07865

9-15-11

(2)

Comments Regarding Resolution for Authority for Plan Conformance and Project Review
September 15, 2011

My name is Deborah Post

Neither this Council nor the executive director have the authority to issue Highlands exemptions. The Highlands Act provides for exemptions in the Preservation Area and the Highlands Act provides the NJ Department of Environmental Protection with sole authority over the Preservation Area. The NJDEP issues Highlands Applicability Determinations which include exemption determinations. This Council is not involved in that process and has no statutory authority to insert itself into that process. Passing a resolution that delegates authority for exemption determination when this Council itself has no such authority is overreach and unlawful.

By removing itself from all decisions and determinations associated with the TDR Program, including HDC allocations and the deed restriction, this Council is making it crystal clear of how little importance landowner just compensation is to it. Just funnel the troublesome landowners off to the staff, just get the landowner scum out of your sight and concern, do I not have this right? Ms Carluccio did just summarize your position accurately when she noted that the Council needs to focus on planning and what's important. Landowner compensation is not important to this Council. We hear you loud and clear.

This staff was described in the governor's Authorities Report as wielding "punitive and menacing tools". The landowners feel the impact of those tools and adamantly object to this resolution which delegates authority to that staff.

If the council members do not have the time or inclination to execute the duties with which the Highlands Act charges this Council, then those Council members should resign. Either do your job or quit. Delegating your duties to those who seek to harm is not an option under the law.



Highlands Council Comments September 15, 2011

My name is Deborah Post. I own property in Chester Township.

I too would like to note for the record that councilman James was laughing during Mr. Klumpp's comments.

At the last Council meeting, we were greeted by a dozen or so cops outside this building in almost as many cop cars. Indeed, there may have been more cops than green ralliers that day. The Highlands Militia had been called in, replete with guns and hostility. Had this Council heard the message of the Arab Spring, that the people will rise when corrupt governments steal property and freedoms?

Six billion of property values were stolen by the Highlands Act. That's \$6 billion of private equity vaporized, equity largely of farmers and landowners whom society would not deem rich folks. Six billion dollars should buy the harmed landowners a tad of respect and a heck of lot more than three minutes. Two meetings ago I was obliged to suffer councilman Visioli interrupting me and telling me, in essence, to shut up and get lost.

At the last meeting this Council allowed the Chester cops to drag septogenarian Danielson out of this room with excessive force only 90 seconds after he had begun to speak. Mr. Danielson, financially ruined by the Highlands Act, had recently undergone heart surgery and the twisting of arms behind one's back by an aggressive officer is life-threatening. Yet not one member of this Council spoke up while cartoon bubbles floated above your heads screaming "Get the filthy landowners out of here, we don't care about them, we don't want to hear from them, get the stupid old men out of our faces, bring on the militia."

And while the harmed landowners are insulted, arrested, interrupted and generally treated like scum, the salaried environmental lobbyists have had revolving door access to Swan's office. We have watched them sache in and out without even knocking. These lobbyists are getting paid to be here. It's their job to come before you and slander the landowners. The landowners who come here to request their just compensation have been raped financially, yet they are cut off mid-sentence with the rap of a hammer and a sneer. Rape is a good analogy because throwing stones at the victim is what is done.

I am disappointed but not surprised. After all, this is corrupt and bankrupt New Jersey, it knows not how to govern with integrity and responsibility.

