

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF OCTOBER 15, 2020

**PRESENT**

**VIA TELECONFERENCE:**

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

**CALL TO ORDER** 177<sup>th</sup> meeting of the New Jersey Highlands Water Protection and Planning Council was called to order at 4:01pm by teleconference due to COVID-19.

**ROLL CALL**

Roll call was taken. Member Dressler was absent. All other Council Members were present via teleconference. *The following staff members were present via teleconference: Lisa J. Plevin, Christine LaRocca, James Humphries, Maryjude Haddock-Weiler, Keri Green, Gabrielle Gallagher, Judy Thornton, Kelley Curran, Herbert August, Ranji Persaud, Annette Tagliareni, Carole Ann Diction, and Tom Tagliareni. Also present via teleconference were Lauren Nathan-LaRusso, Senior Counsel, Governor's Authorities Unit; and Jason Kane, Deputy Attorney General (DAG).*

**OPEN PUBLIC MEETINGS ACT** was then recited.

**PLEDGE OF ALLEGIANCE** was then recited.

**CHAIRMAN'S REPORT**

Chairman Richko announced that the order of the agenda has changed to start with reports before other business to allow any Council members who are having difficulty joining the meeting sufficient time to do so. Chairman Richko had no other announcements.

**EXECUTIVE DIRECTOR'S (ED) REPORT**

Ms. Plevin highlighted the following updates and staff activities:

**COVID-19 Response**

Chester Office Closure/Remote Work

Ms. Plevin reported that staff continues to work remotely and are fully functional.

**Project Highlights**

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Completion of Lake Hopatcong and Greenwood Lake studies

Ms. Plevin announced that in 2018 the Highlands Council awarded a grant to the Lake Hopatcong Commission to complete and update the Lake Hopatcong 2006 Lake Restoration Plan. The recently completed Upper Musconetcong River Watershed Implementation Plan expands the scope of the 2006 plan, providing recommendations to improve the health of the watershed surrounding Lake Hopatcong and Lake Musconetcong.

In 2019, the Highlands Council awarded a grant to the Greenwood Lake Commission to update the Commission's Watershed Implementation Plan (WIP). The project provided an update to a 2006 Lake Restoration Plan, and the new WIP reflects results of a robust sampling effort and incorporates recommendations for projects designed to address pollutant loading in the lake.

Adoption of First Critical Habitat Conservation Management Plan (CHCMP) - Kinnelon Borough, Morris County

Ms. Plevin reported that earlier this month the Kinnelon Borough Planning Board adopted a Critical Habitat Conservation Management Plan as an element of the Borough's master plan. This is the first Critical Habitat Conservation Management Plan adopted in the Highlands Region.

- Kinnelon Borough is 97% Preservation Area.
- Council may recall that development and adoption of this plan was a condition of a 2018 approval by the Council of the Borough's application for an HPAA for the construction of a Community Center.
- Highlands Council approved a waiver for disturbance of a Prime Groundwater Recharge Area and found the project consistent with the RMP with conditions, including the adoption of a Critical Habitat Conservation Management Plan.
- In addition to the plan for Kinnelon, at recommendation of Council staff, they also drafted a template for use in other Highlands municipalities

Adoption of First Municipal-wide Water Use and Conservation Management Plan (WUCMP) – Holland Township, Hunterdon County

WUCMPs are meant to set priorities for the available use of water (where net water availability is positive) and establish methods to reduce and, where feasible, eliminate deficits where they exist. This municipal-wide plan is significant because prior plans just looked at a few watersheds and not the whole municipality and because it includes implementation steps.

**Plan Conformance Updates**

Lebanon Borough, Hunterdon County adopted their Stormwater Ordinance to bring it into compliance with Highlands standards as well as updated NJDEP regulations.

Municipally Issued Exemptions

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

- Franklin Township, Warren County issued one (1) Exemption #4.
- West Milford Township, Passaic County issued four (4) Exemption #5s.

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- Lebanon Township, Hunterdon County issued one (1) Exemption #4 and one (1) exemption #2.
- Montville Township, Morris County issued two (2) Exemption #5s.
- Califon Borough, Hunterdon County issued one (1) Exemption #5.

Project Review Updates

Ms. Plevin reported on five (5) Water Quality Management Plan Amendment Reviews:

- In Chester Borough, Morris County - an applicant is seeking a site-specific amendment to the Upper Raritan Water Quality Management Plan to accommodate a combination of residential and commercial development, including a portion of affordable housing. This is an amended application and Highlands Council staff review is pending.
- In White Township, Warren County an applicant is seeking an amendment to the Upper Delaware Water Quality Management Plan to accommodate commercial development including two high-cube warehouse and office buildings. Highlands Council staff review is pending.
- In Lopatcong Township, Warren County, the Township applied for a site-specific amendment to the Upper Delaware Water Quality Management Plan to expand the sewer service area to include an existing single family residence with a failing septic system. Highlands Council staff finding: Not subject to Highlands Council review.
- In Chester Township, Morris County an applicant is seeking a site-specific amendment to the Upper Raritan Water Quality Management Plan to accommodate the development of agricultural labor housing. Highlands Council staff review is pending.
- In Jefferson Township, Morris County an applicant is seeking a site-specific amendment to the Sussex County Water Quality Management Plan to accommodate residential development consisting of conversion of the second floor of three existing buildings consisting of office/retail/restaurant space to 23 one-bedroom residential apartment units. Highlands Council staff review is pending.

Ms. Plevin then reported on two (2) Highlands Applicability Determinations in the Preservation Area, Exemption 11 Reviews:

- NJ American Water Company is seeking a Highlands Applicability Determination for an Exemption 11, to update a groundwater contamination treatment facility in Oxford Township, Warren County. Highlands Council staff review is pending.
- The City of Newark, Department of Water and Sewer Utilities, is seeking a Highlands Applicability Determination for an Exemption 11 to upgrade indoor piping at the Pequannock Water Treatment Plant in West Milford, Passaic County. Highlands Council staff finding: Consistent with Goals of Highlands Act

Lastly, Ms. Plevin reported that the next Council Meeting is scheduled for December 3, 2020.

Chairman Richko asked Council members if they had any comments/questions regarding Ms. Plevin's ED Report.

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Council Comment

Member Sebetich asked if the Lake Hopatcong and Greenwood Lake reports are available to review. Ms. Green responded that the reports will be posted to the Council's website shortly and links will be provided to the Council in the near future.

Vice Chair Alstede inquired about the agricultural labor housing in Chester Township mentioned in Ms. Plevin's ED Report and why staff is reviewing. Mr. Humphries, Director of Planning & Science, responded the proposed wastewater discharge is over the limit and requires Water Quality Management Plan Amendment review by staff. Vice Chair Alstede clarified that a NJPDES permit triggered Highlands review due to the discharge. Mr. Humphries concurred.

*Member Dressler was present at 4:20pm.*

*Member Vobden left the meeting at 4:22pm, due to a bad phone connection.*

**APPROVAL OF HIGHLANDS COUNCIL MINUTES OF JULY 16, 2020**

Chairman Richko noted as a reminder that the Highlands Council Minutes of July 16<sup>th</sup> did not have enough votes at Council's last meeting. As a result, and as a point of order, Chairman Richko asked for a new motion to approve the Minutes of July 16<sup>th</sup> by a member who cast a majority vote ("yes" vote). Chairman Richko asked for a motion on the Council Minutes of July 16, 2020.

*Member Visioli made a motion to approve the Highlands Council Minutes of July 16, 2020. Member Sebetich seconded it.*

*Member Vobden was present at 4:25pm.*

*A roll call vote was taken. The Highlands Council Minutes of July 16, 2020 were APPROVED 11-0, with one (1) abstention by Member Van Abs.*

**APPROVAL OF HIGHLANDS COUNCIL EXECUTIVE SESSION MINUTES OF JULY 16, 2020**

Chairman Richko asked for a motion on the Highlands Council Executive Session Minutes of July 16, 2020.

*Member Dressler made a motion to approve the Highlands Council Executive Session Minutes of July 16, 2020. Member Walton seconded it.*

*A roll call vote was taken. The Highlands Council Executive Session Minutes of July 16, 2020 were APPROVED 9-0, with three (3) abstentions by Members Francis, James, and Van Abs.*

**APPROVAL OF HIGHLANDS COUNCIL MINUTES OF SEPTEMBER 17, 2020**

Chairman Richko asked for a motion on the Highlands Council Minutes of September 17, 2020.

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*Member Visioli made a motion to approve the Highlands Council Minutes of September 17, 2020. Member Dressler seconded it.*

*A roll call vote was taken. The Highlands Council Minutes of September 17, 2020 were APPROVED 12-0.*

## **BUDGET & FINANCE COMMITTEE**

Committee Chair Holtaway provided a report on three (3) resolutions for Council's consideration.

Committee Chair Holtaway reported that as in past practice, the first resolution extends the Operating and Grants budgets at the same average monthly spending until formal FY2021 Operating and Grants budgets are presented and passed, which is expected to take place at our January 2021 Council meeting. The average monthly spending for Operating budget is \$182,199; and for Grants budget is \$35,712.25.

Regarding the other two (2) resolutions, in March 2020 the Budget & Finance Committee met twice to review grant requests. However, before these matters could be brought to the Highlands Council for approval, the FY2020 Highlands Protection Fund budget was put on hold due to the pandemic. In October 2020, the State adopted a new budget appropriating \$2,182,000 to the Highlands Protection Fund Capital Budget for FY2021 (the period of October 1, 2020 to July 1, 2021) allowing the awarding of grants to resume. Six (6) grants are being presented to the Council under two (2) resolutions, due to a recusal on the Passaic County grant by Member James. All grants are reimbursement-based with final budgeted amounts determined by approved scopes of work.

### **Resolution – Approval to Extend the Fiscal Year Budgets 2020 at the Same Average Monthly Spending Level**

*Chairman Richko asked for a motion on the resolution.*

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

There was no Council discussion.

### **Public Comment**

**Hank Klumpp, property owner, Tewksbury, NJ** – Mr. Klumpp inquired what the total salaries are for the year and if the building expense is in the same budget and what that expense is. Chairman Richko suggested Mr. Klumpp call Ms. Plevin to answer his question.

*A roll call vote was taken. The Resolution was approved 11-1.*

### **Resolution - Approval of FY2021 Highlands Protection Fund Capital Budget for Plan Conformance Funding Grants**

*Chairman Richko asked for a motion on the resolution.*

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

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Council Comment

Member Van Abs inquired regarding the Jefferson Township grant for a Wastewater Feasibility Study, in terms of connecting current septic system lots to a wastewater treatment facility. Will there be consideration on how that will affect net water availability in the area? Mr. Humphries responded that consideration will be a component of the overall review.

There was no public comment.

*A roll call vote was taken. The resolution was APPROVED 11-1.*

*Member James recused himself at 4:45pm regarding the next agenda item.*

**Resolution - Approval of FY2021 Highlands Protection Fund Capital Budget for Plan Conformance Funding Grants for Passaic County Economic Development**

*Chairman Richko asked for a motion on the resolution.*

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

There was no Council discussion.

Public Comment

**Hank Klumpp, property owner, Tewksbury, NJ** – Mr. Klumpp recalls funding Passaic County at another time and inquired if this is an additional amount for the County.

**David Shope, property owner, Lebanon Township** – Mr. Shope commented that the three resolutions, in his opinion, provide full employment for planners, land use attorneys, and staff and generates more bureaucracy.

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

*Member James was present at 4:52pm.*

**OTHER BUSINESS:**

Chairman Richko announced that a change was made to this resolution since it was originally distributed to Council members and posted to our website. The January 2021 meeting date has been changed from January 21st to January 14th. The revised resolution was distributed to Council members and posted to our website on Tuesday, October 13.

**Resolution - Highlands Council Annual Meeting Schedule for 2021**

*Chairman Richko asked for a motion on the resolution.*

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

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There was no Council discussion.

*Member Francis was present at 4:54pm.*

Public Comment

**Hank Klumpp, property owner, Tewksbury, NJ** – Mr. Klumpp inquired if the time allowed for the public to provide comment may be extended from 3 to 6 minutes.

*A roll call vote was taken. The resolution was APPROVED 12-0.*

**Resolution - Highlands Development Credit (HDC) Bank Meeting Schedule for 2021**

*Chairman Richko asked for a motion on the resolution.*

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

There was no Council discussion.

Public Comment

**David Shope, property owner, Lebanon Township** – Mr. Shope inquired on the status of the HDC Bank funding.

Chairman Richko noted that this resolution is regarding the HDC Bank's 2021 meeting schedule.

Ms. Plevin responded that there will be items on the agenda for discussion.

Chairman Richko closed for public comment on this resolution.

Bank Chair Walton responded to Mr. Shope's comment that the purpose of the Bank meeting is 1) in case the State appropriates funding; and 2) we do apply for, and have successfully received over the past several years, federal grant funds to buy open space as aggregators of applications from our counties, towns, and other land use entities. For those purposes, the Bank meeting is very effective and useful. The Bank is also working to try to determine a municipal average calculation which will be another calculation method by which farmland and open space can be purchased by public entities. Bank Chair Walton concluded by saying there is still good work for the Bank to do and he looks forward to working with the Bank in the months ahead.

*A roll call vote was taken. The resolution was APPROVED 12-0.*

**OLD/NEW BUSINESS:**

Consideration of Resolution – Petition for Plan Conformance for the Township of Parsippany-Troy Hills, Morris County

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Chairman Richko reported that at Council's last meeting, the Council was asked to consider a resolution to approve the Parsippany-Troy Hills Petition for Plan Conformance. Member Dressler, who is the Chair of the Plan Conformance Committee, presented the topic for discussion and made the motion to approve the resolution, which was seconded by Member Sebetich. When the matter was opened for Council discussion, questions were raised by several Council members that resulted in the matter being tabled before a final vote was taken.

As a result of Council comments raised at the last meeting, representatives of the Township of Parsippany-Troy Hills requested an opportunity to revise their Petition. The revised Petition was re-noticed and posted to the Highlands Council website for public comment earlier this week. Following the close of this public comment period and any additional revisions as a result of the comment period, the Council will be presented with a new set of Petition materials for consideration. As such, a motion for leave to withdraw the motion is being considered.

Member Dressler commented that when the Plan Conformance Committee reviewed the Petition, the Committee unanimously voted to move the Petition for Council consideration. Member Dressler added that Member Vohden did not address his concerns during the Committee meeting where his comments could have been addressed and responded to and instead provided his comments at the Council meeting.

Member Vohden commented that he did vote "yes" at the Committee meeting to move the Petition to the full Council and added that he raised the same issue regarding these types of Petitions.

*Chairman Richko asked for a motion for leave to withdraw the motion.*

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

### Council Discussion

Member Vohden commented that he had a few issues that he would like to better understand. Member Vohden inquired regarding the implementation and enforcement of the Highlands Act in a conforming Planning Area municipality and whether a municipality could pick and choose amongst the standards of the Highlands Act and the Regional Master Plan.

Maryjude Haddock-Weiler, Planning Manager, clarified that a conforming municipality would be subject to all of the goals, policies and objectives of the Highlands Regional Master Plan. She further explained that because Parsippany-Troy Hills is such a developed community there are many instances where the individual properties throughout the Township would be exempt and therefore not be subject to those standards.

Member Vohden asked if the 300-foot open water buffer will be enforced throughout the municipality. Ms. Haddock-Weiler responded that in those cases where there is no exemption then the 300-foot Highlands Open Water (HOW) buffer would apply. If, however, the buffer was already disturbed and was not functioning as a buffer, proposed development would not be impacted by the HOW buffer standard.

There were further discussions related to residential and non-residential exemptions and when septic density rules would be applied in a Planning Area community. It was explained that conformance for a Planning Area municipality involves conformance with the Highlands Regional Master Plan and not the NJDEP Highlands Rules.



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Ms. Plevin added if any Council members would like a detailed briefing on Plan Conformance, Highlands staff would be happy to provide.

Ms. LaRocca, Chief Counsel, reiterated that what is on the floor for Council's consideration is a motion for leave to withdraw the original motion to approve the Parsippany-Troy Hills Petition.

Chairman Richko added that public comments are not required for this motion.

*A roll call vote was taken. The motion for leave to withdraw the motion was APPROVED 11-1.*

*Member Dougherty left the meeting at 5:25pm.*

There was no further old/new business for Council members.

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

Public Comment

**Julia Somers, New Jersey Highlands Coalition** – Ms. Somers referred to some of the public comments provided during today's meeting and that Council has purchased many properties from willing sellers.

**George Cassa, Califon, NJ** – Mr. Cassa thanked Member Vohden and Ms. Haddock-Weiler for the exchange of information on questions he had not fully understood and wishes this kind of information would be forthcoming in the future.

*Member James made a motion to adjourn the meeting. Member Walton seconded it. All were in favor. The meeting was adjourned at 5:30pm.*

**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: 12/03/2020

Name: Annette Tagliareni  
Annette Tagliareni, Executive Assistant

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