

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 18, 2013

**PRESENT**

JIM RILEE	)	CHAIRMAN
KURT ALSTEDE	)	VICE CHAIRMAN
TRACY CARLUCCIO	)	COUNCIL MEMBERS
TIMOTHY P. DOUGHERTY	)	
MICHAEL R. DRESSLER	)	
MICHAEL FRANCIS	)	
BRUCE JAMES	)	
CARL RICHKO	)	
MICHAEL SEBETICH	)	
MICHAEL TFANK	)	
JAMES VISIOLI	)	
RICHARD VOHDEN	)	
ROBERT G. WALTON	)	

**ABSENT**

ROBERT HOLTAWAY )

**CALL TO ORDER** 124<sup>TH</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 5:01pm.

**ROLL CALL**

Roll call was taken. Council Member Holtaway was absent. All other members were present. *The following staff members were present: Gene Feyl, Margaret Nordstrom, Andrew Davis, Chris Danis, Carl Figueiredo, Kim Kaiser, Carole Diction, Tom Tagliareni, and Ranji Persaud. Also present were Lewin Weyl, Deputy Attorney General and Peter Simon, Assistant Counsel of the Governor's Authorities Unit.*

**OPEN PUBLIC MEETINGS ACT**

Ms. Tagliareni announced that the meeting is being held 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 JUNE 20, 2013**

*Mr. Vohden introduced a motion to approve the minutes. Mr. Dressler seconded it.*

*All members present voted to approve the Minutes of June 20, 2013. The minutes were APPROVED 12-0, with one abstention.*

**CHAIRMAN'S REPORT**

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 18, 2013

Chairman Rilee reported the appointment of a Checklist/Land Use Ordinance Review Committee. The appointed Council Members on the committee consist of Chairman Rilee and Members Dressler, Richko, Tfanck, and Vohden. Chairman Rilee noted that a meeting will be scheduled soon.

**COUNCIL MEMBER REPORTS**

Ms. Carluccio would appreciate being on the Checklist Committee. Chairman Rilee duly noted Ms. Carluccio's comment.

**COMMITTEE REPORTS**

**Audit Committee**

Mr. Walton reported on the Audit Committee. Mr. Walton reported that the appointed Agency Auditor, Mercadien PC, CPA, has completed the audit of the Highlands Council's directly administered funds for the fiscal years ending June 30, 2012 and June 30, 2011.

The completed audit reports, dated June 11, 2013, represent the Highlands Council's directly administered funds for fiscal years 2012 and 2011. These reports were conducted in accordance with generally accepted auditing standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

The Auditors did not identify any significant or unusual transactions or accounting policy in controversial. An Audit Committee meeting/conference call was held on July 2, 2013 at 1:00pm.

A phone conference was held between Mr. Walton and Jill Ann Murphy, CPA of Mercadien, P.C. prior to July 2<sup>nd</sup> as required for the audit.

Mr. Walton, Chair of the Audit Committee, recommended that the Highlands Council accept and approve the audit reports for fiscal years 2012 and 2011.

**Resolution – Acceptance of Audit**

*Mr. Vohden made a motion on the Resolution. Mr. Dougherty seconded it.*

*A roll call vote was taken. The resolution was APPROVED 13-0.*

**Council Comment**

Chairman Rilee complimented the work of the Audit Committee and staff.

Mr. Dougherty commented that he rarely sees an audit that has no recommendation and complimented staff on this effort.

**EXECUTIVE DIRECTOR'S REPORT**

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 18, 2013

Mr. Feyl gave his Executive Director's report aided by a PowerPoint presentation. The presentation may be found on Council's website at the following link:

[http://www.highlands.state.nj.us/njhighlands/about/calend/2013\\_meetings/jul18/HCMtg\\_Jul18\\_EDReport.pdf](http://www.highlands.state.nj.us/njhighlands/about/calend/2013_meetings/jul18/HCMtg_Jul18_EDReport.pdf)

Mr. Feyl also reported on a resolution before Council this evening for a temporary budget extension that will authorize Council staff to "pay the bills" while the new budget is being finalized.

Chairman Rilee announced the resolution.

**Resolution – Approval To Extend The Fiscal Year Budgets 2013 At The Same Average Monthly Spending Level**

*Mr. Tjank made a motion on the Resolution. Mr. Vobden seconded it.*

Chairman Rilee opened the meeting to the public for comments on the Resolution.

There were no public or Council comments.

*A roll call vote was taken. The resolution was APPROVED 12-1.*

**Highlands Council Website: Interactive Mapping and Plan Conformance Materials**

*Chairman Rilee left the meeting temporarily at 5:15pm.*

Mr. Feyl introduced Ms. Danis and Mr. Figueiredo for Council's presentation on the Highlands Council Website: Interactive Mapping and Plan Conformance Materials. The presentation may be found on Council's website at the following link:

*Chairman Rilee returned to the meeting at 5:17pm.*

[http://www.highlands.state.nj.us/njhighlands/about/calend/2013\\_meetings/jul18/HCMtg\\_Jul18\\_webmappingpreso.pdf](http://www.highlands.state.nj.us/njhighlands/about/calend/2013_meetings/jul18/HCMtg_Jul18_webmappingpreso.pdf)

This ended the Executive Director's report.

**Resolution – Approval Of Agritourism/Ecotourism/Economic Development Grant To Sussex County**

*Messrs. Vobden and Francis recused themselves as Sussex County officials.*

Ms. Nordstrom introduced Eric Snyder, Sussex County Planning Director and Donna Traylor, Agriculture Resource Specialist.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 18, 2013

Ms. Nordstrom gave an overview of the grant presented before Council. Ms. Nordstrom stated that Sussex County is requesting \$200,000 to embark on a Highlands-wide model for economic development based on the successes of their previous grant initiatives. Previously the County has received both Agritourism and Niche Marketing grants, which produced enhanced visibility for agricultural enterprises in the Highlands Region.

The current application takes the logical next step, and provides an analysis of the regional economy and the role played by agriculture in general and agritourism/ecotourism in particular. The research will build on successes from the earlier grant programs to provide a broader picture of the dynamics of the region's economy in order to better make strategic decisions in Highlands tourism deployment. The information gleaned from these analyses will enable the County to develop a comprehensive marketing strategy and companion web/app-based program that will highlight ag and eco destinations in Sussex County. This will be used as a model for the other 6 counties in the Highlands region so that the information collected can be added to a master Highlands database, which the public and visitors to our region would be able to use for future planned visits.

Ms. Nordstrom concluded by stating that Sussex County has been the "poster child" for successful and innovative county grant management in the Highlands.

Mr. Snyder, Sussex County Planning Director, said that he appreciated the opportunity to attend the meeting and work with the Highlands Council and staff. He recounted that Sussex County has a history of working with the Council, which began in 2005-2006 and hopes to continue that effort. Mr. Snyder mentioned that Tammie Horsfield, President Sussex County Chamber of Commerce was also in attendance as this project will be a cooperative effort with the Chamber.

Ms. Traylor gave a presentation on behalf of Sussex County.

Mr. Snyder added that the program is exportable and these efforts can be replicated by other counties. Mr. Snyder concluded that this is a new model and thinks it is important for the entire region.

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

### **Council Comment**

Mr. Walton did not dispute the merit of the project, but did not feel Council was authorized to approve the grant as written in the resolution. Mr. Walton noted that the resolution referenced Section 18 of the Act, which "authorizes the Highlands Council to make available grants and other financial and technical assistance to municipalities and counties in furtherance of the Regional Master Plan." Mr. Walton noted that this language was changed to reference Section 6.g of the Act, which "authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts things necessary, convenient, or desirable for the purposes of the Council or to carry out any power, duty, or responsibility expressly given in the Act." Mr. Walton stated that he does not agree with the resolution as written and plans to vote no.

Mr. Feyl stated that Council staff has researched Mr. Walton's concern further and thanked him for bringing this issue to Council staff's attention.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 18, 2013

*Mr. Dougherty temporarily left the meeting at 5:53pm.*

Mr. Davis confirmed that the resolution was changed to reflect section 6.g. Mr. Davis noted that this was reviewed carefully internally and he is very comfortable that there is ample authorization in the statute under 6.g as well as in the RMP to go forward with this type of grant program. Mr. Davis added that he also discussed this issue with the DAG's office, which agrees with this interpretation.

Mr. Dressler asked for confirmation from the Deputy Attorney General in attendance, Lewin Weyl.

DAG Weyl confirmed that his office believes there is legal authority to pass the resolution as written.

Chairman Rilee opened the meeting to the public for comments on the Resolution.

**Public Comment**

**David Shope, owns property in Lebanon Township** – Mr. Shope is against the resolution due to no quantitative analysis.

*Mr. Dougherty returned to the meeting at 5:55pm.*

**Pat Moffitt, Peapack, NJ** – Mr. Moffitt asked what the market size is for the grant.

**Ed Wengryn, New Jersey Farmers Bureau** – Mr. Wengryn commented that the proposal is a great idea for ag in the region. Mr. Wengryn asked Council for their support.

**Deborah Post, Chester Township** – Ms. Post commented that the grant is not the job of this Council and should be far better spent on TDRs and landowner compensation.

**Jerry Kern, property owner in Pohatcong Township** – Mr. Kern is against this resolution. Mr. Kern added that Council needs to make their first priority compensating landowners.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey supports this resolution and this grassroots effort. Ms. Frey has a problem with corporation agriculture.

**Andy Drysdale, Chester Township** – Mr. Drysdale is unhappy about not being compensated for his land since 2004.

**Mary Van Lieu, Warren County** – Ms. Van Lieu commented that Council needs to look at where Sussex County is spending their money.

**Ericka Van Auken, New Jersey Highlands Coalition** – Ms. Van Auken supports this resolution.

**Robert Fink, Washington Township (Warren County)** – Mr. Fink would like the DAG to repeat Mr. Walton's concerns and the results.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 18, 2013

Mr. Walton responded that he has had lengthy conversations with Council's Chief Counsel and disagrees with him.

**Council Comment**

There was continued Council discussion on the past grants awarded to Sussex County, the grant budget, how the previous grants were used by Sussex County, the market for this grant, as well as if grant funds could be used for TDR grants.

*Mr. Walton left the meeting at 6:09pm.*

Chairman Rilee suggested that Council carry this resolution.

*A motion was made by Mr. Visioli TO CARRY this resolution. Mr. Dressler seconded it. All members were IN FAVOR, no one OPPOSED.*

At this time Jon Eskilson, Sussex County Administrator and Tammie Horsfield, President Sussex County Chamber of Commerce expressed their support of this project and provided further clarification regarding the partnership between Sussex County and the Chamber of Commerce, and urged the Council to pass the initial resolution.

Chairman Rilee noted that there were enough questions raised that the resolution could result in a negative vote at this meeting, and he would prefer to wait and hopes Council will have enough information to move forward at a future meeting. Chairman Rilee announced that Council's next meeting is August 15, 2013.

*A break was taken at 6:32pm. The meeting reconvened at 6:40pm.*

Chairman Rilee announced that general public comments will be held prior to Executive Session and indicated that the Council may take action after that session.

Chairman Rilee opened the meeting for public comments.

**Public Comment**

**Peter G. Desch, Hampton Councilman** – Mr. Desch hopes Council will vote in Hampton's favor. Mr. Desch asked if he could sit in on the executive session. Chairman Rilee responded that he could not and all questions may be asked during the public session for the resolution and that action will be taken in public session.

**Ericka Van Auken, New Jersey Highlands Coalition** – Ms. Van Auken asked if Council will reconvene after the executive session. Chairman Rilee responded yes.

**Pat Moffitt, Peapack, NJ** – Mr. Moffitt commented that through an OPRA request he believes he has discovered that there is no scientific code of conduct governing Highlands Council staff. Mr. Moffitt asked if Council has any responsibility or accountability to the people who make the laws.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 18, 2013

Mr. Davis responded that the Council has responded to OPRA requests for Mr. Moffitt. Mr. Davis added that, while there is no specific document that can be produced regarding code of conduct, in addition to standard state ethics guidelines, staff members must also adhere to ethical standards related to professional licensing.

**David Shope, owns property in Lebanon Township** - Mr. Shope submitted documentation to Council for the record. Mr. Shope asked what standards of accountability state employees are held to.

Chairman Rilee requested that Ms. Tagliareni scan the documents in a PDF format and send to Council Members.

**Deborah Post, Chester Township** – Ms. Post commented that the efforts in Trenton to pass legislation for open space funding continue while not one of the bills and efforts including the extension of dual appraisal for Highlands appraisals is heard. It is Ms. Post's opinion that the direction to this Council from Trenton and the Governor's office is to simply do nothing.

**Jerry Kern, property owner in Pohatcong Township** – Mr. Kern was disturbed to read Mr. Moffitt's letter and hopes there would be an effort to do some type of investigation about this information for the public trust of this Council. Mr. Kern is against any grants until landowners are compensated.

**Andy Drysdale, Chester Township** – Mr. Drysdale requested that this information gets to the Governor's office and people in the Legislature.

**Robert Fink, Washington Township (Warren County)** – Mr. Fink had concerns about a conflict of interest regarding a bid in Washington Township regarding the Township's Plan Conformance. Chairman Rilee suggested that Mr. Fink needs to get advice from the Township Attorney as it is a local issue. Mr. Dougherty also suggested that Mr. Fink could go to the County Prosecutor's office.

**Robert Frey** – Mr. Frey commented that the Highlands Council is based on shady politics and Council does not care about landowner compensation.

### **Council Comment**

Ms. Carluccio had concerns about the plan conformance process slowing and believes the Checklist Committee will further hold up the process. Mr. Feyl responded that there are fifteen petitions that need to come to Council and other municipalities are in the implementation process. Mr. Feyl added that the outstanding petitions are the more difficult ones and confirmed that the Checklist Committee has added a step in the process, but said he does not feel it is slowing the process. Mr. Feyl added that there is ample energy put into the process and the process is maturing. Ms. Carluccio also suggested that Council have a technical committee to address synthetic turf fields.

Mr. Vohden had concerns about claims being made and that Council will take under consideration all the facts made when updating the RMP. Mr. Vohden added that in Policy 6G1 in the RMP it states:

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 18, 2013

“To develop a program for RMP Updates for all substantive components of the RMP, based upon the receipt of new, corrected or updated factual information and verification by the Highlands Council, when and where necessary to improve the accuracy of the RMP.”

Mr. Dougherty asked if Council has assured Mr. Moffitt that some issues would be looked at during the RMP updates and requested copies of the correspondence.

Mr. Francis commented that Council should be careful to watch the image Council projects and be more understanding with municipalities in the Plan Conformance process and be more supportive of Council staff.

### **Resolution – Executive Session**

Mr. Davis read into the record:

**WHEREAS**, the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., permits the holding of closed sessions by public bodies in certain circumstances, and the Council is of the opinion that those circumstances presently exist; and

**WHEREAS**, the general nature of the subject to be discussed is potential litigation by the Borough of Hampton concerning legal fees and expenses, for which advice from counsel subject to the attorney-client privilege is required

**NOW, THEREFORE, BE IT RESOLVED**, that the Council may enter into closed session at its public meeting of July 18, 2013, for that purpose. It is anticipated at this time that the nature of the closed session will be made public upon completion or resolution of the issues to be discussed, except any matter protected by the attorney-client privilege will not be disclosed.

*Mr. Vohden made a motion on the resolution to go into Executive Session. Mr. Richko seconded it.*

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

*Chairman Rilee called the Executive Session to order at 7:20 pm and may take action after the session.*

[EXECUTIVE SESSION]

*Director Rilee closed the Executive Session and resumed the New Jersey Highlands Water Protection and Planning Council meeting at 7:30pm.*

### **Resolution – Approval Of A Settlement Agreement With The Borough Of Hampton, Hunterdon County**

Mr. Davis read into the record an excerpt from the resolution. Mr. Davis added that the final resolution will be available on Council’s website tomorrow:

“**NOW, THEREFORE, BE IT RESOLVED** by the Highlands Council that the Executive Director, or his designee, is hereby authorized to enter into a Settlement Agreement and remunerate the Borough of Hampton in the amount of \$30,000 to settle this matter without resort to litigation and as a means to resolve all other claims by and between the Borough of Hampton and the Highlands Council related to the reimbursement of legal fees.”

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 18, 2013

**Public Comment**

**David Shope, owns property in Lebanon Township** - Mr. Shope assumed this resolution is regarding the legal shield.

Mr. Davis responded the final resolution will be public tomorrow. It is about a dispute between Hampton Borough and Highlands Council.

*Mr. Dougherty made a motion on the resolution. Mr. Francis seconded it.*

There was no Council comment.

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

*Mr. Vobden made a motion to adjourn the meeting. Mr. Dressler seconded it. The meeting was adjourned at 7:39pm.*

**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: 9-20-13

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 Richko			✓			
Councilmember Sebetich			✓			
Councilmember Tfank						✓
Councilmember Visioli	✓		✓			
Councilmember Vohden		✓	✓			
Councilmember Walton						✓
Chairman Rilee			✓			