

## **RESOLUTION 2012-30**

### **NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF A WATER USE AND CONSERVATION MANAGEMENT PLANNING GRANT FOR THE TOWNSHIP OF SPARTA, SUSSEX COUNTY**

**WHEREAS**, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

**WHEREAS**, the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

**WHEREAS**, Section 14 of the Highlands Act expressly requires mandatory Plan Conformance where municipalities, located wholly or partially in the Preservation Area, must revise and conform their local master plan and development regulations, as they relate to development and use of land in the Preservation Area, with the goals, requirements and provisions of the Regional Master Plan within 15 months of adoption thereof, or December 8, 2009; and

**WHEREAS**, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may voluntarily revise and conform their local master plans and development regulations, as they relate to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan at any time; and

**WHEREAS**, the Highlands Act provides that an approval of a Petition for Plan Conformance entitles the conforming municipality with specific benefits including: planning grants, technical assistance, state aid, priority for projects, tax stabilization funds, a strong presumption of validity and extraordinary deference in the event of legal challenge, and legal representation; and

**WHEREAS**, Section 18 of the Highlands Act obligates the Highlands Council to establish a grant funding program to reimburse municipalities for reasonable expenses associated with Plan Conformance; and

**WHEREAS**, on December 18, 2008, the Highlands Council approved Resolution 2008-73 to provide grant funding for the Highlands municipalities to cover the reasonable expenses associated with revisions to master plans, development regulations or other regulations to conform them to the Regional Master Plan; and

**WHEREAS**, under Resolution 2008-73, the Highlands Council authorized the Executive Director to develop and implement a process for the solicitation and distribution of the Plan Conformance Grants in a total amount not to exceed \$7.5 million and up to a \$100,000 allocation for each individual municipality to address the immediate mandatory components of Plan Conformance; and

**WHEREAS**, in the Township of Sparta includes 11,488 acres of land in the Preservation Area and 13,335 acres of land in the Planning Area; and

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**WHEREAS**, on December 8, 2009, Sparta Township submitted a Petition for Plan Conformance which included one resolution for all lands lying in the Preservation Area; and

**WHEREAS**, on August 12, 2011, the Executive Director completed the Final Draft Consistency Review and Recommendations Report, and posted a Public Notice, the Final Draft Consistency Review and Recommendations Report, and the complete Petition package on the Highlands Council website for a public review and comment period, with written comments due on or before August 30, 2011; and

**WHEREAS**, on September 9, 2011, the Executive Director posted the Final Consistency Review and Recommendations Report and Highlands Implementation Plan and Schedule on the Highlands Council website, which addressed issues raised during the public comment period; and

**WHEREAS**, on September 15, 2011, the Highlands Council held a public hearing on Sparta Township's Petition for Plan Conformance and provided an opportunity for public comment; and

**WHEREAS**, on September 15, 2011, after due consideration the Highlands Council approved Sparta Township's Petition for Plan Conformance with conditions as set forth in Resolution 2011-30, the Final Consistency Review and Recommendations Report and the Highlands Implementation Plan and Schedule; and

**WHEREAS**, the Highlands Council approval of Resolution 2011-30 authorized the Executive Director to amend the Sparta Township's Plan Conformance Grant Agreement consistent with direction from the Highlands Council; and

**WHEREAS**, on July 17, 2008, the Highlands Council adopted Resolution 2008-27 thereby adopting the Highlands Regional Master Plan (RMP); and

**WHEREAS**, the RMP includes a goal to protect, restore and enhance water quality and quantity of surface and ground waters (Goal 2B); and

**WHEREAS**, the RMP includes Objective 2B8c requiring the development of Water Use and Conservation Management Plans through municipal Plan Conformance for all watersheds in order to meet the policies and objectives of Goal 2B; and

**WHEREAS**, the RMP includes a resource assessment of the water availability of the Highlands subwatersheds (the 14 digit Hydrologic Unit Code or HUC14) and the net water availability has been calculated for all 183 HUC14 subwatersheds of the Highlands Region and 114 are in deficit based on usage data and applicable RMP thresholds; and

**WHEREAS**, on September 5, 2008, Governor Corzine issued Executive Order 114 ordering the New Jersey Department of Environmental Protection to take appropriate action to ensure that no water allocation permit is issued for any development, and no approval is given to any portion of a

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Water Quality Management Plan amendment, in the Protection Zone, the Conservation Zone, or the Environmentally-Constrained Sub-Zones, within a HUC14 subwatershed that is in, or anticipated to be in, a deficit of net water availability, as identified by the Highlands Plan, until such time that a Municipal Water Use and Conservation Management Plan, consistent with the policies in the Highlands Plan, has been approved by the Highlands Council and has been fully implemented; and

**WHEREAS**, in order to address the complexity of subwatershed planning, to develop and implement Water Use and Conservation Management Plans, and to address the mandates of Executive Order 114, the Highlands Council may provide technical and financial assistance to municipalities and counties pursuant to Section 18.b of the Highlands Act using the Highlands Protection Fund; and

**WHEREAS**, Sparta Township has proposed the White Deer Plaza Sewer Treatment Plant Conversion project (the Project) in order to decommission an old treatment facility and connect to the Sussex County Municipal Utilities Authority Treatment Plant; and

**WHEREAS**, the Project must proceed as a Planning Area Exemption No. 11 which requires that the Highlands Council determine the Project's consistency with purposes and goals of the Highlands Act using the Highlands Regional Master Plan as a guide, and as part of that consistency determination, the Sparta Township is required to develop and implement a Water Use and Conservation Management Plan (WUCMP) to address net water availability impacts; and

**WHEREAS**, three subwatersheds affected by the Project are HUC14s: 02020007010010, 02020007010020, and 02040105040050; and

**WHEREAS**, Highlands Council staff recommends that the Highlands Council authorize the execution of an amended Plan Conformance Grant Agreement with Sparta Township to include the development of a WUCMP for the above Project,

**WHEREAS**, pursuant to N.J.S.A. 13:20-5.j, no action authorized by the Highlands Council shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Council has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE, BE IT RESOLVED** by the Highlands Council that the Executive Director, or his designee, is hereby authorized to amend the Plan Conformance Grant Agreement with Sparta Township not to exceed \$50,000 for the development of a WUCMP for the Project with this Resolution.

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#### CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 18th day of October, 2012.

  
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 Jim Rilee, Chairman

**Vote on the Approval of  
This Resolution**

	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede	_____	_____	✓	_____	_____	_____
Councilmember Carluccio	_____	_____	✓	_____	_____	_____
Councilmember Dougherty	_____	_____	✓	_____	_____	_____
Councilmember Dressler	_____	_____	✓	_____	_____	_____
Councilmember Francis	_____	_____	✓	_____	_____	_____
Councilmember Holtaway	✓	_____	✓	_____	_____	_____
Councilmember James	_____	_____	_____	_____	_____	✓
Councilmember Mengucci	_____	_____	✓	_____	_____	_____
Councilmember Richko	_____	_____	✓	_____	_____	_____
Councilmember Sebetich	_____	_____	✓	_____	_____	_____
Councilmember T'fank	_____	_____	✓	_____	_____	_____
Councilmember Visioli	_____	✓	✓	_____	_____	_____
Councilmember Vohden	_____	_____	✓	_____	_____	_____
Councilmember Walton	_____	_____	_____	_____	_____	✓
Chairman Rilee	_____	_____	✓	_____	_____	_____