

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF FEBRUARY 21, 2013

**PRESENT**

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

**ABSENT**

JAMES MENGUCCI	)
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**CALL TO ORDER**

Chairman Rilee called the 120<sup>th</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 5:00pm.

**ROLL CALL**

Roll call was taken. Council Members Carluccio, Dougherty, Mengucci and Dressler were absent. All other members were present. *The following staff members were present: Gene Feyl, Margaret Nordstrom, Chris Danis, Kim Kaiser, Maryjude Haddock-Weiler, James Humphries, Chris Ross, Herbert August, Carole Diction, and Tom Tagliareni.*

**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.

*Ms. Carluccio was present at 5:01pm*

**APPROVAL OF MINUTES OF JANUARY 17, 2013**

*Mr. Visioli introduced a motion to approve the minutes. Mr. Walton seconded it. All members present voted to approve. The minutes were APPROVED 12-0.*

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**CHAIRMAN'S REPORT**

Chairman Rilee commented on Senator Smith's press recently on water tax, and whether Council supports a water tax or not, Chairman Rilee finds it offensive that the water tax does not support property owners and residents in the Highlands Region.

**Resolution – Election of Vice-Chair of the Highlands Council**

Chairman Rilee introduced the Resolution. Member Francis nominated Kurt Alstede for the Vice-Chair position.

*Mr. Francis made a motion on the Resolution. Mr. James seconded it. All members present voted on the resolution. A roll call was taken. The resolution was APPROVED 10-1 with one abstention.*

**Resolution – Election of Treasurer of the Highlands Council**

Chairman Rilee introduced the Resolution. Member Richko nominated Robert F. Holtaway for the Treasurer position.

*Mr. Richko made a motion on the Resolution. Mr. Visioli seconded it. All members present voted on the resolution. A roll call was taken. The resolution was APPROVED 11-0 with one abstention.*

Chairman Rilee reported for the record that the election of officers takes place on a yearly basis.

**Resolution – Supplemental Amended Grant Agreement Borough of High Bridge**

Chairman Rilee introduced the Resolution.

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

Mr. Feyl recognized the representatives from High Bridge present at the meeting. High Bridge Borough Administrator Doug Walker and Borough Planner Darlene Green were present.

*Mr. Dougherty was present at 5:06pm.*

Mr. Feyl commented that High Bridge Borough is a model for Plan Conformance and is the first municipality to adopt the Highlands Land Use Ordinance. The Borough's Initial Plan Conformance Grant was \$50,000, which could have been \$100,000; Amended Grant Agreement of \$92,000 with a balance of \$74,000 remaining for fair share housing, redevelopment and water use and conservation plans. The resolution before Council today is for \$101,100 for studies on the Borough's economic profile (incubator formation and marketing), Historic Preservation Plan and Lake Restoration Plan of Lake Solitude. Highlands Council staff recommends that this resolution be approved by Council.

Chairman Rilee opened the meeting to the public for comment.

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**Public Comment**

**Julia Somers, Executive Director, New Jersey Highlands Coalition** – Ms. Somers commented on the Lake Management section of the High Bridge Borough grant. Ms. Somers commented that the Borough plans to consider an ordinance to change prioritization of sanitary sewer access and move to the end of the line property that is close to Lake Solitude. Ms. Somers distributed maps/illustrations that showed the resources on the properties close to Lake Solitude. Ms. Somers urged Council to ask the Borough what their plans are regarding their Lake Management Plan before Council approves their grant today and prior to the Borough meeting next week when the ordinance will be considered.

**Douglas Walker, High Bridge Borough Administrator** - Mr. Walker commented that the prioritization in the ordinance is only for the areas that are currently serviced in the sewer service area and there are no plans to extend due to the capacity currently on the service.

**Vicki Peck, High Bridge Resident** – Ms. Peck commented that prior to the adoption of a new ordinance there was a sewer plan by the Borough Engineer in 2009, which made a projection that out of 121 non-area septic, 70 will fail. Ms. Peck added that a recommendation was given that top priority should be for on-site disposal systems. Ms. Peck added that this new ordinance leaves out anyone not on the sewer line.

Chairman Rilee responded that it sounds like this is a local issue and added that the sewer service area is not determined by the Borough.

*Member Dressler was present at 5:20pm*

There was further discussion regarding High Bridge's ordinance prioritizing their sanitary sewer area and the Borough's Waste Water Management Plan.

Mr. Sebetich asked what the Borough is planning to do to protect Lake Solitude. Mr. Sebetich commented that there should be a Lake Management Plan study then the Borough should determine what is relevant for the sewer and septic service area.

Mr. Walker responded that the Borough has limited capacity in the existing sewer service area.

**David Peifer, Association of New Jersey Environmental Commission** – Mr. Peifer commented on the issue of capacity noting that when proper analysis of infiltration and inflow are done a municipality may find additional capacity and a correction of issues. Mr. Peifer noted that in the Highlands Council's technical reports on water utilities, there is an estimate of infiltration and inflow of each system in the Highlands that provides a perspective on whether a system is performing badly or well. Mr. Peifer noted that although there is a potential problem Council is in a position to give help and funding for addressing water quality of Lake Solitude. Mr. Peifer urged Council to add some language that would characterize a response of what could be done or an alternative analysis to be added to the grant. It is a problem that has been there for a while and is not going to get better. Mr. Peifer concluded that Council can do some good here with proper planning and analysis but Council needs to frame it.

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**David Shope, owns property in Lebanon Township** – Mr. Shope commented that he was against this resolution as it is another contribution for the “Planning/Engineer fund.” Mr. Shope added that it is waste of taxpayer dollars and the Council needs to consider the habitat of people.

After more Council discussion on this topic, Chairman Rilee asked for a roll call.

*All members present voted on the resolution. A roll call was taken. The resolution was APPROVED 14-0.*

### **EXECUTIVE DIRECTOR’S REPORT**

Mr. Feyl commented that this past month Highlands Council staff continued its focus on our traditional responsibilities while also, as promised at our last meeting, developing this afternoon’s program that we believe offers a paradigm shift in our Transfer of Development Rights program. Mr. Feyl then provided the following updates.

*Mr. James left the meeting temporarily at 6:01pm.*

Plan Conformance and Implementation: Municipalities continue to complete conformance and implementation task components. Staff plans to present Roxbury’s Preservation Area petition and Wanaque’s Preservation and Planning area petition to the Council within the next couple of meetings. As now reflected in Council Member’s “Plan Conformance Status” report, with the inclusion of Randolph Township last month there are 44 Conformance approvals.

As a function of Plan Conformance and fostering productive conversations with our stakeholders outreach has proven a vital component. Several municipalities have renewed contact with the Highlands Council after long periods of dormancy and asked for a Highlands presentation with interest in conformance. Mr. Feyl reported that during the past month Highlands Council staff met with:

6	Municipal governing bodies and/or planning boards
6	County Administrators and/or Planning Directors
3	Advocacy and special interest groups
12	State Agencies, State Committees, and State advisory boards
4	Training and Education Sessions for Municipal Planners
2	Education/Professional Associations (APA) for Highlands Staff
	2 Days 4 staff members
1	Highlands staff meeting
34	Total

Mr. Feyl noted that meeting specifics may be found in the Executive Director’s Report (ED). For the period between this afternoon and our next meeting 15 meetings are scheduled and Mr. Feyl is reasonably certain that that number will double in the next month.

Mr. Feyl then discussed the development of a series of informational brochures that he refers to as “our 101 series.” The brochures will cover a variety of Highlands topics. Created to-date are:

- Planning for the Future of New Jersey’s Water - an overview of the Highlands Council and its mission, designed for the general public.

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- TDR Receiving Zones –An overview of what’s involved in establishing a voluntary Receiving Zone, designed for municipalities considering the possibility. Council will see this evening.

The next planned brochure in the series will provide an overview of Plan Conformance and Implementation, designed for professionals already engaged in the process as well as those considering conformance.

Mr. Feyl then noted that in compliance with Resolution 2012-18 “Delegation of Executive Director’s Authority for Plan Conformance” and Mr. Feyl’s commitment to provide a report on activities within its scope, Mr. Feyl noted that two items have been reviewed and are detailed in the ED Report.

Under the category of litigation updates, Mr. Feyl noted that in the case of the Town of Clinton and the Borough of High Bridge, the Fair Share Housing Center challenged Highlands Council approval of plan conformance petitions claiming they were not adopted according to the Administrative Procedure Act. On January 25, 2012 the Appellate Division affirmed the Highlands Council Plan Conformance approval.

In conclusion, Mr. Feyl announced the “main event” of the meeting. Since the adoption of the Highlands Water Protection and Planning Act in 2004 and the subsequent adoption of the Regional Master Plan, the Transfer of Development Rights (TDR) program has been envisioned as a primary, if not the only, method to attract private funds into the land owner compensation formula. Other compensation methods require some form of government levy; bonding or taxing. The expectations of the Highlands TDR program have been at best disappointing and to achieve minimal goals has required an infusion of public cash. Mr. Feyl explained that, from the outset, current Highlands Council staff leadership recognized that success relied on partnerships with a wide variety of institutions and agencies. He acknowledged that current leadership recognized that the concept is complex and quickly realized that it was difficult or it would have already been done successfully in the Highlands. Mr. Feyl expressed that if a successful TDR program was implemented successfully in the Pinelands, why could it not happen in the Highlands. He then explained that the following presentation represented a feasible and practical program for transfer of development rights. Mr. Feyl clarified that success will not be easy, but also stated that current leadership believes it has developed an approach to attracting/identifying and securing receiving zones that will work if the Council aligns itself with the right partners. Mr. Feyl turned the presentation over to Deputy Executive Director Margaret Nordstrom and Principal Planner James Humphries.

### **Transfer of Development Rights (TDR) Program Update Presentation**

Ms. Nordstrom began the presentation and explained that the Highlands TDR program was created by the Highlands Act as a means of compensating landowners for the lost development potential of their lands using monies from the private sector. She then explained that the TDR program is the main tool available to the Highlands Council for landowner compensation, but to make it work Council needs to establish receiving zones; otherwise there will be no market for credits. Ms. Nordstrom noted that some towns had expressed interest initially and were awarded grants to determine the feasibility of creating a TDR receiving zone. However, none of these panned out and

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no town has designated such a zone. Therefore, Council staff thought that we needed to re-assess the program, figure out why it was not working and come up with a plan to move it forward.

**Highlands Development Credit (HDC) Process**

Mr. Humphries gave an overview of the HDC Process.

- A property owner first submits an application for Development Credits;
- Highlands Council Staff review the application and the Executive Director issues an allocation. (An allocation is simply the formal acknowledgement of how many credits the property qualifies for, there are no marketable credits created at this point);
- The property owner must decide at this point whether to place an easement on their property to convert the allocation into marketable credits;
- During the certificate issuance process a closing is conducted where a conservation easement to the Highlands Council is placed on the property. At that point a certificate is issued to the property owner; and
- Once the certificate is issued, it may then be sold to the HDC Bank or on the open market.

*Mr. James returned to the meeting at 6:05pm.*

**Highlands Development Credit (HDC) Status**

Mr. Humphries displayed the following chart summarizing the current status of HDC Allocations and Credit Purchases by the HDC Bank.

HDC Allocations	Closed	Pending
1,608.25 HDCs Allocated	392.5 HDCs	88 HDCs
3313 Acres	332.21 Acres	208.07 Acres
86 Applicants	12 properties	5 properties

Mr. Humphries continued to discuss HDC status:

- Funding
  - \$10,000,000 Provided through EO 114
  - \$6,293,300 Closed (including closing costs)
  - \$1,415,500 Pending (including closing costs)
  - \$1,000,000 Set Aside for Debt Service (required by Treasury)
- TDR Receiving Grants
  - 15 TDR Receiving Grants awarded
  - 7 Completed (2 concluded not-feasible)
  - 2 Pending
  - Revisions to Program to increase funding and include fiscal analysis

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Mr. Humphries also noted that the Council has been issuing grants for the study of potential TDR receiving areas. To date, fifteen TDR Receiving Area grants have been awarded, with 2 new grants pending. Seven have been completed, with 2 concluding that a receiving area is not feasible

### **Outreach**

Ms. Nordstrom then gave an overview for next steps. Ms. Nordstrom commented that as a part of due diligence and outreach, Highlands Council staff met with County Economic Development groups to talk about economic development and floated the idea of establishing TDR receiving zones. The Economic Development Corporations (EDC) knew of towns that they thought would have some interest in becoming receiving areas and helped set up initial meetings. Ms. Nordstrom explained that she and Mr. Feyl approached these meetings from their perspectives as former mayors – what would be an attractive proposal to those in that capacity and determined that TDR receiving zones needed to make sense to both towns and developers from a fiscal perspective. Ms. Nordstrom explained that an economic analysis had never been part of the grant process and needed to be done before towns would be willing to make a commitment. Municipal leaders needed to be able to make the case to their constituents and themselves that the town would benefit financially from the establishment of a TDR receiving zone. Ms. Nordstrom explained that staff also looked at potential partners at the state level, agencies that could bring assets to the table to create as strong a fiscal proposal as possible. These agencies include OPA, NJ EIT, and HMFA, among others. Mr. Nordstrom explained that they also reached out to the NJBA, because unless a proposal also works for a developer, nothing is going to move forward. The following slides were developed to reflect these ideas and discussions and will be used to support meetings with municipalities.

### **Presentation to Municipalities: TDR Receiving Areas**

Ms. Nordstrom then shared the TDR Presentation with Council.

Mr. Humphries noted that the purpose of this presentation is to increase municipal interest in becoming a TDR receiving area by providing some examples of issues the municipality may identify in their town and relate those issues to the benefits of becoming a TDR receiving area.

#### **Does your municipality want to:**

- Improve sewers, roads, schools, or other infrastructure elements
- Improve an existing commercial corridor
- Revitalize an aging urban area
- Reinvigorate a small downtown
- Preserve open space and move development to areas where growth is desired

Mr. Humphries' explained that the presentation would be tailored to a specific municipality's needs and showed example slides for different types of municipalities.

#### **Why designate a Receiving Zone?**

- Direct growth where you want it
- Revitalize developed areas
- Make infrastructure improvements
- Enhance downtown areas

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- Preserve open spaces
- Attract new business
- Improve aging commercial & industrial areas
- Increase competitiveness with surrounding towns

Ms. Nordstrom then explained a slide illustrating where Highlands Council Staff supports the TDR program. Ms. Nordstrom noted that for something as new and innovative as a TDR program, Council staff felt that it had to do more than just award grant money; it needed to go out and identify towns that were clearly interested in the process and excited about the potential for economic growth and improvement of their tax base and these would be the towns targeted for grants; Ms. Nordstrom explained that the new approach envisages a very close working relationship with towns as they go through the process so that the Highlands Council is assured of getting the work product needed to continue moving forward.

Mr. Humphries commented that the slide illustrated what was lacking in the previous TDR Receiving Grant studies conducted by towns: towns were left to identify issues and road blocks to receiving areas, with no assistance or support provided to identify solutions. Mr. Humphries added that under the revised grant program Highlands Council staff will work closely with municipalities to not only identify issues, but come up with solutions so that a receiving zone would be viable. Council staff hopes to revisit the existing grantees, both the completed and the ones in process, with these ideas in mind.

Mr. Humphries stated that the next slide provides a basic overview of TDR programs for individuals at the municipality that might not understand the concept.

#### **What is Transfer of Development Rights (TDR)?**

- Land Use and Regional Planning Tool
- Transfers development potential from areas we want to preserve (Sending Zones) to areas where growth is desired (Receiving Zones)
- Landowners in Sending Zones deed restrict property and are compensated for lost development potential by purchasers who buy development “credits” to use in Receiving Zones

Ms. Nordstrom then showed a slide outlining the Highlands TDR Program. Ms. Nordstrom noted there is no template or prescribed program – there is a great deal of flexibility in crafting something to suit a town’s needs. She emphasized that TDR Receiving Zones can be anywhere in the state and that staff members were in discussions with towns that are outside the Highlands but are dependent on Highlands water.

#### **Highlands TDR Program**

- Highlands Act required creation of TDR program
- Effective means of addressing economic development needs simultaneously with local and regional landowner equity
- Highlands Council created Highlands Development Credit Bank (HDC Bank) to oversee Highlands Development Credit (HDC) transactions
- Receiving Zones are **voluntary** & can be **anywhere in the state**

#### **Benefits of Designating a Receiving Zone**

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Ms. Nordstrom showed a slide on the benefit of designating a receiving zone:

- Charge up to \$15,000 per unit impact fees
  - Use for infrastructure improvements
- Receive up to \$250,000 in enhanced planning grant
  - Maximize impact of receiving zone

Ms. Nordstrom emphasized that the Highlands TDR program is the only one in the state that allows a town to charge impact fees. The municipality has to have a logical nexus to the development that is being proposed and before a town gets into the \$250K planning grant process, they have to make a commitment to establishing a TDR receiving zone. As Ms. Nordstrom stated the “wedding” has to happen and this is why the ground work by the Highlands Council staff is so important.

**Benefits: Impact Fees**

Mr. Humphries showed the benefits of impact fees used for receiving area improvements such as:

- Schools
- Roadways and transit
- Sewer and water infrastructure
- Streetscape
- Recreational amenities
- Brownfield and contaminated site cleanup
- Energy improvements
- Economic development activities

Mr. Humphries noted that the impact fees previously mentioned need to be used for costs related to the TDR Receiving Area, but those costs could be for a wide variety of programs. Mr. Humphries also noted that staff tries to provide towns with ideas of how those monies could be used; from schools to roads, site cleanup or economic development.

**Benefits: Enhanced Planning Grants**

- Covers planning for enhancement of Receiving Areas, which can include:
  - Streetscape and façade improvement
  - Sustainable economic development
  - Marketing/branding
  - Historical preservation
  - Infrastructure planning and design

Mr. Humphries noted that the enhanced planning grants can be used to implement the receiving areas in various ways. The idea is to show to the municipality that the grant can be tailored to their specific needs. Mr. Humphries emphasize that although the grant can be used for ordinance writing, it can also include planning for additional items including streetscape and façade improvement plans, sustainable economic plans, marketing plans, historic preservation plans, and infrastructure planning and design.

Mr. Humphries noted that during the presentation made to municipalities, Council staff will try to provide some examples of how a TDR receiving area may relate to the issues with their towns (i.e., rural, mature urban or commercial corridor).

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**Why designate a Receiving Zone? - Rural Community**

- Opportunities: Preserve open space; move development to targeted areas
- Receiving Zone Designation Benefits
  - Impact fees
    - School improvements
    - Road improvements
  - Enhanced planning grants
    - Comprehensive plan for vision of receiving area (village master plan)
    - Market study to identify possible new business
    - Assessment to identify agritourism/ ecotourism opportunities

**Why designate a Receiving Zone? - Mature Urban**

- Opportunities: Revitalize developed areas
- Receiving Zone Designation Benefits
  - Impact fees
    - Infrastructure upgrades
    - Streetscape improvements
    - Remediation of contaminated sites
    - Enhanced security (cameras, lighting)
  - Enhanced planning grants
    - Sustainable economic development (attract new business)
    - Façade and streetscape plans

**Why designate a Receiving Zone? - Commercial Corridor**

- Opportunities : Reinvigorate/maximize potential
- Receiving Zone Designation Benefits
  - Impact fees
    - Infrastructure improvements: sewer, streetscape, access
  - Enhanced planning grants
    - Sustainable economic development (attract new business)
    - Architectural enhancement

**Receiving Zone Assessment Grants**

- Assess feasibility of establishing voluntary Receiving Zones
- Up to \$40,000 available
- Grant scope may be customized to meet needs of applicants
- No requirement to designate Receiving Zone

Mr. Humphries noted that the ultimate purpose of this presentation is to get a community interest in establishing a TDR receiving area, the first step of which is apply for a Receiving Zone Assessment Grant. Mr. Humphries added that the most significant change in the program is the attempt to not just identify issues with a Receiving Area, but for Highlands Council staff to be involved so that issues that are identified can be resolved. At the end of the grant program the objective is for a municipality to see not only that a receiving area is possible, but also that they have sufficient information to make an informed decision about the implementation of a TDR Receiving Area.

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Ms. Nordstrom concluded the presentation by stating that Highlands Council staff has had initial meetings with a number of towns, with follow-ups meetings scheduled for two of them to go over the grant. Ms. Nordstrom added that staff is hopeful that they will be able to announce some grant awards in the upcoming months. These grants will have, as previously mentioned, a new level of staff oversight and new attention to detail to make sure they result in the creation of receiving zones. Ms. Nordstrom expressed optimism about the future.

**Council Comments**

Mr. Tfrank asked what considerations are given to brownfields. Mr. Humphries responded that it would be primarily addressed in the initial grant.

Mr. James commented that he received positive feedback from everyone he spoke with in his county regarding the establishment of receiving zones.

Mr. Francis commented that the financial model is critical for municipalities.

Mr. Holtaway commented on his concerns regarding additional density. Mr. Humphries responded that density is a concern and looking at necessary capacity is part of the process and reason for impact fees.

*Mr. James left the meeting at 6:27pm.*

Ms. Carluccio commented on the Executive Director's report regarding the Legislation. Ms. Carluccio knows that in the past the Council has directed Highlands Council staff to make testimony. Mr. Feyl responded that he would be happy to pursue if he is directed by Council to do so.

Mr. Francis said if it is regarding the Highlands region, he is for it.

Chairman Rilee does not feel we should take a position that does not affect the Highlands.

Ms. Carluccio would like Council to consider. Mr. Feyl responded that he would like to know the details on each Bill.

There was continued discussion on the Bills currently in legislation.

Mr. Alstede stated that Council needs to take into consideration the position of the Governor on certain Legislation.

Mr. Jablonski commented that it is fairly routine to request information of the Executive Director.

In conclusion, Mr. Rilee added that the Executive Director will give Council an overview to analyze proposed legislation that could impact the Highlands report their findings to Council.

Ms. Carluccio commented on the distribution of the geotechnical report amended to Council's resolution regarding 700 Bartley Road. Mr. Feyl responded that the report was received just yesterday and will be distributed to Council.

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Ms. Carluccio asked about progress of Plan Conformance. Mr. Feyl commented that Council staff is making progress.

Mr. Dougherty asked about the quarterly reports from Tennessee Gas Pipeline regarding NE Upgrade project. Mr. Feyl responded that he will look into that report. Mr. Feyl did note that the weekly reports are on our website for the 300 Line Project.

Mr. Dougherty also asked to update the Council on the status of the position of Chief Counsel. Chairman Rilee responded that Council expected to have more information in early March.

Chairman Rilee thanked Gene for his monthly reports, which keep Council in the loop. Chairman Rilee also noted that next month he hopes to have a plan for Council's RMP review.

Chairman Rilee opened the meeting for public comment.

**Public Comment**

**Jerry Kern, property owner in Pohatcong Township** – Mr. Kern expressed concern regarding Council supporting any Legislation unless it is 100% funding Highlands. Mr. Kern added that Council's first priority should be for landowners who have lost their rights. Mr. Kern also asked if there is a cost for the TDR application, survey, deeds, etc. Mr. Humphries responded that there is no application fee. Outside the HDC Bank Board program, there is an approximate \$2,500 closing cost which is reimbursed to applicant. Mr. Kern is not optimistic on the TDR program and still has concerns.

**David Shope, owns property in Lebanon Township** – Mr. Shope commented on the TDR program and that the TDRs are discounted to a minimum of 75% of the value established by Integra, hired by the Highlands Council to determine the TDR values. Mr. Shope added that Council is still trying to peddle TDR credits that are devalued and have not addressed that issue in the presentation. Mr. Shope commented that the \$250,000 planning grant goes directly to planners and it is a golden opportunity for them to dip into the state budget administered by Council. Mr. Shope also added that there has been no attempt to establish the size of the market versus the size of the supply for the TDR program. Mr. Shope stated if Council is looking for funding for Highlands Preservation money the New Jersey Water Supply Authority (NJWSA), which use to do it, is eliminating the program as proposed in their upcoming rate adjustment. Mr. Shope submitted for the record his correspondence back and forth to the NJWSA.

Mr. Walton asked if the \$16,000 can be explained on how it was derived at a future meeting. Mr. Feyl responded that the new program will be market based.

**Susan Williams, Sparta Township** – Ms. Williams commented that the TDR Program seems more complicated than she thought it would be and is confused about who the stakeholders are. Ms. Williams also commented that there seems to be some reluctance by Council to support the bills currently in legislation.

**Elliot Ruga, New Jersey Highlands Coalition** – Mr. Ruga commented that it is very convenient to blame a situation on Trenton when Council can have a hand in correcting that situation by participating in the system and letting your concerns be known today.

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**Erica Van Auken, New Jersey Highlands Coalition** – Ms. Van Auken thanked the Highlands Council staff for the TDR presentation. As noted in the presentation, Ms. Van Auken commented that the \$10 million allocated is starting to dwindle and while Council is putting a great effort into launching a better TDR program, it is not there yet. Ms. Van Auken added that until that time it makes sense to support the preservation programs the State has in place; Green Acres, Farmland Preservation Program, and Historic Preservation Program. Ms. Van Auken noted that 30% of funding from those programs is allocated to the Highlands. Ms. Van Auken concluded that the Council is a governing body and has a right to have a voice for the Highlands region.

**Robert Fry, farmer in Pohatcong Township** – Mr. Fry commented that this past Monday Pohatcong Township's Environmental Commission met with two Highlands staff members to review the Environmental Impact Study. Mr. Fry asked the staff member of the status on the 2588 acre restrictions and lawsuit in the Preservation Area. The staff person did not appear to be aware of the issue until Jerry Kerns mentioned the New Jersey Farm Bureau. Mr. Fry asked if anyone knows if this litigation has been resolved. Mr. Jablonski responded that the litigation was dismissed and is back before the department for further consideration.

**Matthew Smetana** – Mr. Smetana commented that it has been 14 years since the inception of the Act there has been a potential to find receiving zones. Chairman Rilee commented that for years there has been no attempt as there has been now to get the TDR Program rolling. Chairman Rilee added while we are not sure if it will or will not work, it is a long time but this current administration has made a significant attempt. Mr. Smetana appreciated the attempt as it is noted in the Act that it would happen two years after the inception of the Act. Mr. Smetana asked what the cost per unit is for a builder who receives credit. Chairman Rilee responded that it would be based on market value. Mr. Smetana agreed with the comment made earlier regarding the 75% of loss in value. Mr. Smetana asked where the additional grant funds come from for this TDR Program. Mr. Feyl responded that the grant money comes out of the annual grant budget.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey urged Council to consider supporting some or all of the bills being considered in Trenton. Ms. Frey commented that Green Acres and Farmland Preservation Programs are paid for out of the Garden State Preservation Fund and about 30% of this statewide pot of money came to the Highlands. Ms. Frey stated that this money goes for the state, municipality, counties and non-profits to spend. Ms. Frey commented that landowners have the option of selling a tract or they can do a deal where they sell a portion of the tract. Ms. Frey commented that a landowner in Tewksbury sold their property over \$40,000 per acre in the Preservation Area. Ms. Frey concluded that it would be helpful to have the Highlands Council and members supporting these bills.

**Bill Kibler, Director of Policy & Science, Raritan Headwaters Association** – Mr. Kibler made a suggestion to Council to consider reconstituting the Technical Advisory Committees when planning the RMP review as Council does not have a surplus of staff.

**Hank Klumpp, owns 150 acres in the Highlands Preservation Area** – Mr. Klumpp commented that the evaluation and discounts are in the Highlands Council documents and Integra came up with a price of \$64,000 and the Highlands Council brought it down to \$16,000. Mr. Klumpp asked how much grant money has been spent for the TDR Program that was allocated. Mr. Feyl responded \$7 million. Mr. Klumpp asked about the conservation easement. Ms. Nordstrom responded that the

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property is restricted on development rights. Mr. Klumpp concluded that he would be willing to go to Trenton with Council. Council needs to be involved.

**David Peifer, Association of New Jersey Environmental Commission** – Mr. Peifer commented on the open space funding and that there are basically three options. These options are: 1) water tax; 2) dedication of sales tax and 3) bonding. None of them are without some difficulty. Sales tax will require a constitutional amendment to get it on the ballot before the voters in a timely way. Bonding is generally a difficult lift due to concerns on overall state debt and state's credit rating. Regarding the water tax, Mr. Peifer commends Council to the New Jersey Water Supply Authority to look at their program in use to buy land in the Highlands and other parts of the Raritan River Valley. Mr. Peifer added it is basically a contractual agreement between the users of water and the authority and there does not seem to be any legislation necessary to establish it and some communities have benefited dramatically. Mr. Peifer urged Council to contact Henry Paterson and Ken Klipstein. Mr. Peifer added that what is at risk here is open space funding for the whole state of New Jersey since 1961. Mr. Peifer said it is a quicker route for landowners in the Highlands to have access to Historic Preservation, Blue Acres, Green Acres, and Farmland Preservation funding instead of reliance on the TDR Program. Mr. Peifer encouraged Council to make their case to the Legislature. Council has a planning document and has assessed the needs for funding and Council can make an objective compelling case to the Legislature on what the Highlands needs are and if you do not take the opportunity to do it, I am afraid there is a good possibility we will lose all open space funding for the state.

*Mr. Holtaway made a motion to adjourn the meeting. Mr. Walton seconded it. The meeting was adjourned at 7:27pm.*

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**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: 3/21/13

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 T'fank						✓
Councilmember Visioli		✓	✓			
Councilmember Vohden			✓			
Councilmember Walton	✓		✓			
Chairman Rilee			✓			