

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 16, 2015

**PRESENT**

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

**ABSENT**

ROBERT HOLTAWAY )

**CALL TO ORDER** 141<sup>ST</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:04pm.

**ROLL CALL**

Roll call was taken. Council Members Dougherty, Dressler, and Holtaway were absent. All other Council Members were present. *The following staff members were present: Margaret Nordstrom, Chris Danis, James Humphries, Kim Ball Kaiser, Corey Piasecki, Maryjude Haddock-Weiler, Chris Ross, Keri Benscoter, and Kelley Curran, Carole Ann Dicton, and Tom Tagliareni. Also present were Lisa LeBoeuf, Assistant Counsel, Governor's Authorities Unit, and Matthew Kelly, Deputy Attorney General.*

**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 HIGHLANDS COUNCIL MINUTES OF JUNE 18, 2015**

Chairman Rilee asked for a motion on the Minutes of June 18, 2015.

*Mr. Francis introduced a motion to approve the Minutes of June 18, 2015. Mr. Richko seconded it.*

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*All members present voted to approve the Minutes of June 18, 2015. The minutes were APPROVED 11-0.*

**APPROVAL OF HIGHLANDS COUNCIL EXECUTIVE SESSION MINUTES OF JUNE 18, 2015**

Chairman Rilee asked for a motion on the Executive Session Minutes of June 18, 2015.

*Mr. Richko introduced a motion to approve the Executive Session Minutes of June 18, 2015. Mr. Francis seconded it.*

*A roll call vote was taken. The minutes were APPROVED 10-0, with one abstention by Chairman Rilee.*

**CHAIRMAN'S REPORT**

Chairman Rilee reported that the proposed open space program rule has been approved and will be sent to OAL to be published in their August 17 edition of the New Jersey Register. Chairman Rilee also reported that the Personnel Committee interviewed three candidates for the Chief Counsel position on July 2, 2015. A recommendation was made and a background check is currently being conducted.

**COUNCIL MEMBER REPORTS**

There were no Council Member reports.

**EXECUTIVE DIRECTOR'S REPORT**

Plan Conformance update: Ms. Nordstrom announced that Clinton Township's Petition for Plan Conformance was approved. In Plan Conformance Implementation: Mount Arlington Borough (Morris County) adopted its Highlands Environmental Resource Inventory and Master Plan Highlands Element.

Municipal Issued Exemptions:

Preservation Area

- Califon Borough, Hunterdon County: Exemption 5 – 1 issued.
- Montville Township, Morris County: Exemption 2 – 2 issued.
- Vernon Township, Sussex County: Exemption 8 – 1 issued.

Ms. Nordstrom also reported on the Regional Planner position. Interviews were held the week of July 6<sup>th</sup> and there are currently two candidates being considered for this position. A task was assigned to each candidate, which will assist in the final decision. Lastly, due to lack of agenda items, Council's August 20<sup>th</sup> meeting will be cancelled.

**RMP Update Committee**

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Vice-Chair and Committee Chair Alstede reported that our consultant Steve Gunnells (PlaceWorks) was unable to attend the meeting so there will be no presentation today as anticipated on the second phase of the Fiscal Impact Analysis. We expect to see Mr. Gunnells' presentation at a future meeting. Committee Chair Alstede added that all other work is progressing.

**Plan Conformance Committee**

Ms. Nordstrom reported that a Plan Conformance Committee meeting was held on June 23, 2015. Two (2) items were discussed and details may be found in the committee minutes in member's packets and on Council's website:

- Procedures for Highlands Redevelopment Area Designations
- Affordable Housing Draft Plan Conformance Grant guidelines

*Member Dressler was present at 4:12pm.*

*Member Dougherty was present at 4:13pm.*

**Budget & Finance Committee**

Ms. Nordstrom reported that a Budget & Finance Committee meeting was held on July 7, 2015. The committee discussed the three resolutions on Council's agenda.

**Resolution – Approval To Extend The Fiscal Year Budgets 2015 At The Same Average Monthly Spending Level**

Chairman Rilee asked for a motion on the resolution.

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

**Council Comment**

There were no Council Comments.

**Public Comment**

There were no Public Comments.

*All members present voted on the Resolution. The Resolution was APPROVED 12-1.*

**Resolution – Approval Of A Transfer Of Development Rights Receiving Zone Feasibility Grant Borough Of High Bridge, Hunterdon County**

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Chairman Rilee asked for a motion on the resolution.

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

Ms. Nordstrom gave a presentation/overview for this resolution. Ms. Nordstrom noted that High Bridge Borough needs to go through Phase I of the TDR feasibility study for water and sewer capacity prior to moving forward. The cost for this phase is \$5,000. The presentation for this resolution may be found on Council's website.

[http://www.highlands.state.nj.us/njhighlands/about/calend/2015\\_meetings/jul\\_16/ppt\\_highlands\\_CouncilMeeting\\_jul2015\\_tdr.pdf](http://www.highlands.state.nj.us/njhighlands/about/calend/2015_meetings/jul_16/ppt_highlands_CouncilMeeting_jul2015_tdr.pdf)

**Public Comment**

**David Shope, Lebanon Township, NJ** – Mr. Shope spoke in opposition of this resolution. Mr. Shope felt that the Borough should know their water and sewer capacity.

**Helen Heinrich, New Jersey Farm Bureau**- Ms. Heinrich supported this resolution for a TDR feasibility study and hopes easements may be available at some point.

**Council Comment**

Member Carluccio commented that it is clear that there are sensitive resources in High Bridge Borough. Member Carluccio feels that an analysis should have been presented to Council before Council considers grant funding.

Member Walton commented that High Bridge Borough has a vibrant downtown, close to NJ Transit, and that \$5,000 is money well spent.

Member Francis commented that he admires a town who wants to look at the possibility of TDR.

*All members present voted on the Resolution. The Resolution was APPROVED 11-2.*

**Resolution – Approval For FY2016 Appropriation Of Funds In Support Of Updates For RMP Conformance Modules 2, 3, And 7 And NJ Supreme Court Decision Regarding Council On Affordable Housing Third Round Rules**

Chairman Rilee asked for a motion on the resolution.

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

Staff member James Humphries gave a presentation regarding the resolution. The presentation may be found on Council's website at:

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[http://www.highlands.state.nj.us/njhighlands/about/calend/2015\\_meetings/jul\\_16/ppt\\_highlands\\_CouncilMeeting\\_jul2015\\_affordable\\_housing.pdf](http://www.highlands.state.nj.us/njhighlands/about/calend/2015_meetings/jul_16/ppt_highlands_CouncilMeeting_jul2015_affordable_housing.pdf)

Member Richko asked how much had already been spent to help municipalities comply with the first round, which was negated by the Supreme Court.

Chairman Rilee noted that other municipalities outside the Highlands need to fund this decision through their municipal budgets.

**Public Comment**

**Hank Klumpp, Tewksbury, NJ** – Mr. Klumpp spoke in opposition of this resolution and asked to compensate landowners with the funding.

**George Cassa, Tewksbury, NJ** – Mr. Cassa thanked the Council for its efforts to clarify the Supreme Court decision. Mr. Cassa asked about the status of the Memorandum of Understanding between the Highlands Council and COAH.

Mr. Kelly, DAG, responded that the MOU primarily dealt with the Third Round rules that the court overruled and consequently, the status of the MOU is currently unclear.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey asked if the proposed program guidelines were consistent with the MOU with COAH.

Staff member Humphries clarified that the guidelines were developed based on the RMP and the Fair Housing Plan, which have not changed, as well as the resource protections of the RMP.

Ms. Frey supports the resolution as it is essential.

**David Shope, Lebanon Township, NJ** – Mr. Shope spoke in opposition of this resolution due to COAH and Highlands science used to determine housing obligations.

**Council Comment**

Member Richko reported that staff member Humphries had shared with him that \$1.5M was given to municipalities in the first round.

Member Walton gave background on Hampton Borough's decision to conform for Plan Conformance due to COAH obligations.

Vice-Chair Alstede asked if Council needs to do this right now.

Chairman Rilee responded that Council is obligated to support the municipalities who have opted into Plan Conformance.

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There was continued Council discussion on this resolution regarding the funding, deadlines for this statutory obligation, municipalities filing a declaratory judgement, and builder's remedy lawsuits.

Ms. Nordstrom added that this matter is time sensitive for municipalities in the Highlands region.

For clarification purposes, staff member Humphries commented that municipalities are not required to file declaratory judgements. The impact for not filing a declaratory judgement is largely believed to be that simply the municipality would no longer be in the driver's seat. It wouldn't necessarily open them up immediately to a builder's remedy lawsuit. Municipalities throughout the state are not required to comply by filing a housing element and fair share plan or declaratory judgement, however, in the Highlands, the RMP and Plan Conformance Petitions require municipalities to adopt a housing element and fair share plan, nowhere else in the state is that required. The Fair Housing Act has specific requirements for municipalities in the Highlands region that requires 20% set aside on every new housing unit constructed that is unique to all regional planning entities. Mr. Humphries concluded that an important item to think about is that all of the planning work done by the Highlands is somehow involved with waste water capacity, water capacity, and environmental restrictions legislated by the Highlands Act.

Member Dressler commented that the New Jersey Supreme Court is legislating themselves. Member Dressler plans to vote "no" as a protest on process itself.

Member Carluccio commented that she would support this resolution based on making sure the environmental constraints and Highlands waters are protected despite the need for a fair share housing plan.

*All members present voted on the Resolution. The Resolution was APPROVED 10-3.*

*Member Tjank temporarily left the meeting at 4:53pm.*

*Chairman Rilee opened the meeting to general public comments. Public comments regarding Fenimore will be taken after the general comments.*

### **Public Comment**

**Hank Klumpp, Tewksbury, NJ** – Mr. Klumpp commented on the farmland assessment process and would like Council's opinion on this process.

*Member Tjank returned to the meeting at 4:54pm.*

Member Dressler responded that he reached out to one of his legislators to check into it and is waiting to hear back regarding this matter.

**George Stafford, NJ Highlands Coalition** – Mr. Stafford invited Council to some upcoming Highlands Coalition events (Highlands Festival on Sept. 18 & 19, and WRNJ Local Impact with

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Joyce Estey on August 5). Mr. Stafford also commented in regards to the COAH obligation that the state of New Jersey needs water and there are good policies in place.

**Elliott Ruga – NJ Highlands Coalition** – Mr. Ruga attended three hearings on the Haberman site in Hampton Borough. One of the provisions of that litigation settlement agreement is that it is required that a map adjustment will be made through this site. Mr. Ruga added if Council wants to prevent development that could never be allowed under today's regulations to occur, which will increase the population of Hampton by 60%, Council should enforce a provision of the RMP and make a map update from conservation zone to existing community zone, so the agreement could not be facilitated.

**David Shope, Lebanon Township, NJ** – Mr. Shope asked what the cost is for exemption fees. Mr. Shope asked about his question regarding staff's empowerment and Council's parameters and authority to give it. Lastly, Mr. Shope spoke in opposition of the \$1.2M funding for municipalities.

*At this time, Chairman Rilee recused himself and Vice Chair Alstede opened the meeting at 5:03pm for public comments on Fenimore.*

**Fenimore Public Comments**

**Bob Schultz, Randolph, NJ** - Mr. Schultz asked if there is an update on the Roxbury Water Quality committee.

Member Dressler responded that we are trying to get a meeting together and it has been difficult with summer schedules.

**Kathy Panetta, Ledgewood, NJ** – Ms. Panetta asked when there will be a meeting with the residents.

Vice-Chair Alstede commented that REACT's motion to intervene in the Fenimore litigation may impact this and that Council needs to consider more fully the implications of this new development and seek legal advice to protect the interests of the Council from a legal perspective.

Ms. Panetta again questioned if there would be a public meeting and recommendations by the committee. Member Dressler answered yes. Vice-Chair Alstede added that there could be conditions on a meeting predicated upon the legal recommendations of counsel.

**Christopher Rath, Township Manager, Roxbury, NJ** – Mr. Rath thanked Council for their efforts on behalf of Roxbury Township and its residents. Mr. Rath added that he believes all parties are interested in protecting the residents with regard to both clean air and clean water.

*Mr. Richko made a motion to adjourn the meeting. Mr. James seconded it. The meeting was adjourned at 5:08pm.*

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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: 9-18-15

Name: Annette Tagliareni  
Annette Tagliareni, Executive Assistant

**Vote on the Approval of  
This 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			✓			