

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MEETING MINUTES OF JANUARY 16, 2020

PRESENT

CARL J. RICHKO) CHAIR
KURT ALSTED) VICE CHAIR
MICHAEL FRANCIS) COUNCIL MEMBERS
BRUCE JAMES)
JAMES VISIOLI)
RICHARD VOHDEN)
ROBERT G. WALTON)

VIA TELE-CONFERENCE

TRACY CARLUCCIO)
MICHAEL R. DRESSLER)
ROBERT HOLTAWAY)
TIMOTHY P. DOUGHERTY)

ABSENT

MICHAEL SEBETICH)

CALL TO ORDER 172ND meeting of the New Jersey Highlands Water Protection and Planning Council was called to order at 4:00pm.

ROLL CALL

Roll call was taken. Member Dressler and Sebetich were absent. Members Carluccio, Dougherty, and Holtaway were present via tele-conference. All other Council Members were present. *The following staff members were present: Lisa J. Plevin, Christine LaRocca, James Humphries, Annette Tagliareni, Maryjude Haddock-Weiler, Corey Piasecki, Keri Green, Gabrielle Gallagher, Carole Ann Diction, and Tom Tagliareni. Also present via tele-conference were Lauren Nathan-LaRusso, Senior Counsel, Governor's Authorities Unit; and Jason Kane, Deputy Attorney General (DAG).*

OPEN PUBLIC MEETINGS ACT

Ms. Tagliareni announced that the meeting was being held in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. The Highlands Council sent written notice of the time, date, and location of this meeting to pertinent newspapers of circulation throughout the State and posted notice on the Highlands Council website.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF HIGHLANDS COUNCIL MINUTES OF OCTOBER 17, 2019

Member Dressler was present via tele-conference at 4:01pm.

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Chair Richko asked for a motion on the Highlands Council Minutes of October 17, 2019.

Member James made a motion to approve the Highlands Council Minutes of October 17, 2019. Member Visioli seconded it.

A roll call vote was taken. The Highlands Council Minutes of October 17, 2019 were APPROVED 11-0.

CHAIRMAN'S REPORT

Chair Richko announced that he, Member Dressler, and some Highlands staff members attended the Jersey Water Works conference on December 13, 2019. Chair Richko enjoyed the information provided about infrastructure but was disappointed that there was no recognition of the source of water nor its watersheds.

Resolution – Election of Vice Chair

Chair Richko asked for a nomination and motion on the Election of Vice Chair.

Member James nominated Kurt Alstede and moved to adopt a resolution appointing him as Vice Chair.

There was no public comment.

There was no Council comment

A roll call vote was taken. The resolution was APPROVED 10-1.

Resolution – Election of Treasurer

Chair Richko asked for a nomination and motion on the Election of Treasurer.

Member Alstede nominated Robert Holtaway and moved to adopt a resolution appointing him as Treasurer.

There was no public comment.

There was no Council comment

A roll call vote was taken. The resolution was APPROVED 11-0.

EXECUTIVE DIRECTOR'S REPORT

Ms. Plevin highlighted the following updates and staff activities:

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Outreach

Ms. Plevin noted that approximately one half of our constituent calls come from either realtors or home buyers/sellers asking about restrictions on their property. Staff determined that it would be beneficial to both realtors and our agency to provide training on key Highlands issues impacting home buying and provide the Realtor community with the tools needed to guide their clients through real estate transactions.

An outreach letter was sent to five realtor boards in November proposing this training. As a result, we've had very positive conversations with three realtor boards. Staff is scheduled to give a presentation on February 19, 2020 at an event hosted by the North Central Jersey Association of Realtors, with an expected attendance of over 150 people.

Interagency Council on Climate Resilience

As mentioned in the December report, the Highlands Council is participating in the recently established Interagency Council on Climate Resilience. Governor Murphy's Executive Order (EO) 89 directs all state agencies to take action to integrate climate considerations in planning and decision making. This EO established the Climate Council to lead the exchange of knowledge and develop policies to enhance the resilience of New Jersey to the impacts of climate change. EO 89 also directs the Climate Council to produce a Statewide Climate Change Resilience Strategy by September 1, 2020, to promote the long-term resilience of the State's economy, resources, and communities.

Staff attended the first meeting and are now developing responses to a questionnaire meant to guide agencies as they begin to consider and plan for the impacts of climate change and to develop recommendations for the Climate Change Resiliency Strategy.

Since a great deal of the discussion about climate change is related to sea level rise, the Highlands Council can play an important role in focusing this Interagency Council on non-coastal impacts as well, particularly ones that could affect our Region.

Plan Conformance Updates

- Hunterdon County completed Phase 3 of their Tourism Study.

Municipally Issued Exemptions

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

- Washington Township, Morris County issued six exemption #5s.
- Montville Township, Morris County issued one exemption #5.
- Byram Township, Sussex County issued one exemption #4.

Project Review Updates

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Highlands staff completed one Water Quality Management Plan (WQMP) Amendment review for a project in Oakland Borough, Bergen County: The project involved the conversion of a 24,750 sq. ft. office building into a house of worship with a commercial kitchen and one-bedroom apartment.

Received materials and currently completing four additional WQMP Amendment reviews for projects in:

- West Milford Township, Passaic County
- Harding Township, Morris County
- Stanhope Borough, Sussex County
- Denville Township, Morris County

TDR/HDC Update

Since the prior report, three HDC easements have been recorded, and one allocation reconsideration has been requested.

Easements:

- Tewksbury Township, Hunterdon County - 70.05 acres residential - 44.25 HDCs certified and purchased by the HDC Bank for \$708,000
- Mount Olive Township, Morris County - 53.14 acres residential - 25.75 HDCs certified and purchased by the HDC Bank for \$412,000
- Tewksbury Township, Hunterdon County - 16.65 acres residential - 26.25 HDCs certified by the HDC Bank.

Reconsideration:

- Bloomingdale Borough, Passaic County - 16.19 acres residential. Initial determination: 12.50 HDCs and the reconsideration review is pending.

The next Council Meeting is scheduled for February 20, 2020.

At this time, Chair Richko recognized Jason Kane, new Deputy Attorney General for the Highlands Council. Chair Richko also congratulated Vice Chair Alstede and Treasurer Holtaway on their nominations.

Plan Conformance Committee

Chair Richko gave a report on the Plan Conformance Committee meeting held on January 8, 2020. Chair Richko stated that the Plan Conformance Committee discussed an Amended Petition for Plan Conformance from the Borough of Chester whose Petition for Plan Conformance was originally approved in July 2016. The Borough is seeking to amend that petition to designate the entirety of the Borough as a

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Highlands Center. The amended petition was posted for public comment for 30 days and received no comments. The Committee reviewed staff's Consistency Review and Recommendations Report, as well as the staff presentation, and found staff's recommendation to approve the Petition with conditions appropriate to move to the full Council. Chair Richko acknowledged in attendance Chester Borough Council President Gary Marshuetz; Margaret Nordstrom, Borough Business Administrator; and David Banisch, Borough Planner.

At this time, Vice Chair Alstede acknowledged for the record that the company he owns, owns property in Chester Borough. Vice Chair Alstede noted he does not reside in Chester Borough and was advised by counsel that there is no conflict of interest so will be voting on this resolution.

Staff then provided a presentation for Chester Borough's Amended Petition. The presentation may be found on the Council's website:

www.nj.gov/njhighlands/about/calend/2020/jan16/preso_jan16.pdf

Council Comment

Vice Chair Alstede asked if there are any additional requirements placed on a homeowner whose property lies in the Highlands Environmental Resource Zone (HERZ). Mr. Piasecki responded that the HERZ will function much like the Protection Zone, however, it allows the Council to provide resource-specific protections. In addition, all exemptions that currently exist in the Highlands Act and all the applicability standards in the Land Use Ordinance for the Planning Area would continue to apply.

Member Carluccio asked about the receiving stream for the sewer outfall. Mr. Piasecki responded it is a tributary of the Lamington River. Member Carluccio asked if the tributary currently meets water quality standards. Mr. Piasecki responded that he believes it does meet those standards, but noted that there have been human markers in the stream. Member Carluccio also asked about the water source, why infrastructure capacity is doubling, and what projects are proposed to utilize the new capacity? Mr. Piasecki responded that the Highlands Council is not aware of any proposed projects utilizing the additional capacity. A key reason for this application for Center Designation is to move forward with a solution to wastewater capacity and the location of a new facility and discharge point. In terms of water supply, the Borough is interconnected with New Jersey American Water making a determination of where the water comes from is a complicated issue. However, there are several HUC 14 sub-watersheds that touch the Borough (all if not most are in surplus). Mr. Humphries added that the doubling of the potable water supply capacity is due to infrastructure upgrades. Member Carluccio also had questions about the Borough's water services and concerns that the Center Designation will allow a greater density than under the Protection Zone. Mr. Piasecki noted that the majority of the area in Chester Borough that is not covered by the HERZ designation is already in the existing community zone, which means those areas are/will be connected to sewer and water and are already permitted at a higher density. Member Carluccio asked why the Center Designation is needed if this is the case. Mr. Piasecki responded that it is primarily for the wastewater outfall.

Member Alstede asked about the planning activities on 50 North Road. Mr. Piasecki explained that the area is not included in the HERZ as there are no Highlands resources present on the property.

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At this time, David Banisch, Borough Planner commented in regards to questions raised by Member Carluccio. The sewer service expansion is needed essentially to serve existing development in town. The existing neighborhoods are all on undersized lots and do not meet NJDEP water quality standards. In addition, not all residents in the Borough are connected to the public water system and it is envisioned ideally that virtually all existing development in Chester Borough be connected to water and sewer eventually. The Borough feels it is a public health issue. It is not the Borough's ambition for any dramatic increases in density/development. Chester Borough is a municipality with stable residential neighborhoods with clearly defined existing residential character and has no interest in altering the character of the existing neighborhoods by increasing density.

Council President Gary Marshuetz commented on behalf of Mayor Hoven to thank the Council for what they do. Council President Marshuetz also noted that the Borough understands the goals and mission of the Highlands and would like to continue our partnership, as well as maintain the health and safety of Chester Borough's residents, protect property values, and best serve our existing residents.

Resolution – Amended Petition for Plan Conformance – Chester Borough, Morris County

Chairman Richko asked for a motion on the resolution.

Member James made a motion. Member Francis seconded it.

Public Comment

Bill Kibler, Raritan Headwaters Association – Mr. Kibler commented in regards to a question Member Carluccio raised regarding potential impairment in this stretch of the Lamington River. Mr. Kibler noted that every two years the State of New Jersey is required to report to the federal Environmental Protection Agency all surface water bodies in the State that are impaired (referred to as the 303(d) list). This stretch of the Lamington River is impaired. Mr. Kibler added for future reviews, the 303(d) list would be useful to Council staff. In closing, Mr. Kibler supports the resolution and believes in the long term this will improve water quality in Chester Borough.

Deborah Post, Chester Township – Ms. Post emphasized the serious sewer problem in Chester Borough and encouraged Council to help Chester Borough find a suitable location for additional sewer capacity.

Julia Somers, New Jersey Highlands Coalition – Ms. Somers supports this application and encourages the Council to take what has been done here and reach out to other Planning Area towns that can benefit from this kind of experience and potential development.

Shaun Peterson, Associate, Wisniewski & Associates, LLC – Mr. Peterson represents a property owner in Chester Borough. Mr. Peterson requested that the Council pause and table the consideration of this petition. In his opinion, the Borough's priority is protecting critical natural and cultural resources with this Highlands Center Designation. Mr. Peterson submitted his comments for the record.

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Council Comment

At this time, Member Walton asked for clarification of a Highlands Center Designation as, in his opinion, it appears to contradict what the Borough wants with this Amended Petition. There was continued discussion about the current wastewater capacity, Highlands Council grant funding, and development/redevelopment in the Borough.

Vice Chair Alstede left the meeting temporarily at 4:50pm.

Member Carluccio commented further on Chester Borough's Amended Petition regarding capacity, water quality, and potential development. Member Carluccio stated that she would vote against this Amended Petition.

Vice Chair Alstede returned to the meeting at 4:52pm.

Member Francis supports this resolution as the Borough wants to plan better and not to have uncontrolled development.

Member Walton believes that the Regional Master Plan creates centers for growth and Chester Borough says they do not want growth.

As a point of order, Vice Chair Alstede asked if the resolution fails for lack of affirmative votes, what is the recourse

Chief Counsel Christine LaRocca clarified the distinction between a resolution that fails and one that does not pass. There may not be enough "yes" votes to meet the voting requirements to have the resolution pass. If there are more "no" votes than "yes" votes, the resolution fails. If it is the former, the resolution may be reintroduced at a future meeting at the discretion of the Chair.

A roll call vote was taken. The resolution was APPROVED 8-3.

Resolution – Executive Session

Chair Richko announced that Council would enter into an executive session. Chief Counsel Christine LaRocca read the following resolution 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 Highlands Water Protection and Planning Council ("Council") is of the opinion that those circumstances presently exist; and

WHEREAS, the Council will discuss personnel matters within the meaning of N.J.S.A. 10:4-12(b)(8);

NOW, THEREFORE, BE IT RESOLVED, that the Council may enter into closed session at its public meeting of January 16, 2020 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.

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This Resolution shall become effective upon a roll-call vote of the Council.

Chair Richko requested a motion on the resolution.

Member James made a motion. Member Vohden seconded it.

A roll call vote was taken. The Resolution was approved 11-0.

Public portion of the meeting was temporarily dismissed at 5:01pm.

[EXECUTIVE SESSION]

The New Jersey Highlands Water Protection and Planning Council meeting resumed at 5:12pm.

Members Visioli and Carluccio left the meeting at 5:12pm.

Resolution –Executive Director Salary

Chair Richko requested Personnel Chair Bruce James to announce the next resolution. Personnel Chair Bruce James read into the record the following resolution:

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) empowers the Highlands Water Protection and Planning Council (Highlands Council) to appoint, retain and employ personnel as it may require without regard to the provisions of Title 11A of the New Jersey Statutes but within the limits of funds appropriated or otherwise made available for those purposes; and

WHEREAS, the Highlands Act authorizes the Highlands Council to conduct its business as needed, subject to the statute, to effectuate the purposes of the enabling legislation; and

WHEREAS, Section 5.g. of the Highlands Act provides for the Highlands Council's appointment of an Executive Director to serve, at the pleasure of the Council, as its chief administrative officer; and

WHEREAS, pursuant to the Highlands Act, the Highlands Council has adopted bylaws which provide for the appointment of an Executive Director whose duties are enumerated in said bylaws and who shall serve at the pleasure of the Council; and

WHEREAS, on July 19, 2018, the Highlands Council appointed Lisa J. Plevin as its Executive Director at an annual basis of \$116,000 by Resolution 2018-6; and

WHEREAS, in recognition of her high level of performance in the execution of her duties as Executive Director, the Highlands Council is increasing Ms. Plevin's salary to an annual basis of \$125,000; and

WHEREAS, pursuant to N.J.S.A. 13:20-5.j, no action authorized by the Highlands Council shall have force or effect until thirty (30) 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 the 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 that the Highlands Council hereby increases the Executive Director salary to an annual basis of \$125,000.

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Chair Richko requested a motion on the resolution.

Member Francis made a motion. Member James seconded it.

Council Comment

There was no Council comment.

Public Comment

There was no public comment.

A roll call vote was taken. The resolution was APPROVED 9-0.

OLD/NEW BUSINESS:

There was no old/new business

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

Public Comment

Bill Kibler, Raritan Watershed Association – Mr. Kibler commented that he also attended the Jersey Water Works conference with same sentiment as Chair Richko. Mr. Kibler invited the Council and/or Council staff to consider co-sponsoring with Raritan Watershed Association for next year's Jersey Water Works regarding source water protection.

Hank Klumpp, Tewksbury, NJ – Mr. Klumpp commented on the federal Highlands map, which includes New Jersey, New York, Connecticut, and Pennsylvania, but not Massachusetts. Mr. Klumpp questions why New Jersey has a Council, but not the other states and why nothing has been done to compensate landowners for their loss of equity due to the Highlands Act.

Julia Somers, New Jersey Highlands Coalition – Ms. Somers commented regarding the Interagency Council on Climate Resilience and is excited about Highlands staff participation in this Council. Ms. Somers also commented that she hopes Hunterdon and Warren Counties work together.

Deborah Post, Chester Township – Ms. Post handed a pop quiz for Council members to complete regarding the HDC Bank and defining the municipal average approach to land equity. Ms. Post's comments were submitted for the record.

George Stafford, Wharton, New Jersey – Mr. Stafford noted the reason why New Jersey (as part of the federal district of the Highlands) created the Highlands Council is because New Jersey has more people and less water than the other states. Mr. Stafford also commented on a potential warehouse project in Warren County and that Council should pay attention to this potential project.

DRAFT - FOR CONSIDERATION AT THE FEBRUARY 20, 2020
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David Shope, Lebanon Township, NJ – Mr. Shope added to Mr. Klumpp’s comment regarding the federal Highlands map. It is Mr. Shope’s opinion that Council has a mindset to freeze population to zero in this area of the state.

Member James made a motion to adjourn the meeting. Member Walton seconded it. All were in favor. The meeting was adjourned at 5:35pm.

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: _____

Name: _____
Annette Tagliareni, Executive Assistant

DRAFT - FOR CONSIDERATION AT THE FEBRUARY 20, 2020
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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 Sebetich						
Councilmember Visioli						
Councilmember Vohden						
Councilmember Walton						
Chairman Richko						