



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

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JIM RILEE
Chairman

MEETING AGENDA Thursday, May 15, 2014 at 4pm

- CALL TO ORDER
- ROLL CALL
- OPEN PUBLIC MEETINGS ACT STATEMENT
- PLEDGE OF ALLEGIANCE
- APPROVAL OF MINUTES AND EXECUTIVE SESSION MINUTES – April 17, 2014
- CHAIRMAN'S REPORT (and Council Member Reports)
 - Discussion item – Dual Appraisal
- ACTING EXECUTIVE DIRECTOR'S REPORT
- CONSIDERATION OF RESOLUTION - Petition for Plan Conformance submitted by the Borough of Oakland, Bergen County (*voting matter with public comment*)
- COMMITTEE REPORTS

BUDGET & FINANCE COMMITTEE:

- CONSIDERATION OF RESOLUTION – Approval Of Contract To Develop A Fiscal Impact Assessment Of The Highlands Water Protection And Planning Act And Associated Regional Master Plan (*voting matter with public comment*)
- CONSIDERATION OF RESOLUTION – Approval of Contract Modification for Water Use and Conservation Management Planning (*voting matter with public comment*)
- EXECUTIVE SESSION
- PUBLIC COMMENTS (*to ensure ample time for all members of the public to comment, we will respectfully limit comments to three (3) minutes. Questions raised in this period may not be responded to at this time but, where feasible, will be followed up by the Council and its staff.*)
- ADJOURN

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MEETING MINUTES OF MAY 15, 2014

PRESENT

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

ABSENT

MICHAEL SEBETICH)
JAMES VISIOLI)

CALL TO ORDER 130TH meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:03pm.

ROLL CALL

Roll call was taken. Council Members Richko, Sebetich and Visioli were absent. All other members were present. *The following staff members were present: Margaret Nordstrom, Andrew Davis, Chris Danis, Kim Ball Kaiser, Corey Piasecki, Jim Hutzelmann, Carole Diction, and Tom Tagliareni. Also present was Christopher Howard, 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 APRIL 17, 2014

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

All members present voted to approve the Minutes of April 17, 2014. The minutes were APPROVED 11-0.

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CHAIRMAN'S REPORT

Chairman Rilee referred to a draft letter which was sent to Council Members for review. This letter expressed support for renewal of the dual appraisal process, and suggested the law be extended not only for farmland but for other open space purposes, as is currently provided for in the law. The Chairman requested a motion for approval to send the letter.

Mr. Holtaway made a motion, and Mr. Francis seconded it. The Council unanimously approved of the motion.

Chairman Rilee announced that comments on Fenimore will be taken at the end of the meeting, similar to last month as he will need to recuse himself.

ACTING EXECUTIVE DIRECTOR'S REPORT

Ms. Nordstrom gave the Acting Executive Director's report to update the Council on some staff activities. Ms. Nordstrom announced that Council will consider Oakland Borough's Petition for Plan Conformance at today's meeting and will consider another municipality over the summer. Ms. Nordstrom complimented Council staff for their efforts in making this happen.

Ms. Nordstrom reported on plan conformance implementation activity since Council's last meeting: Washington Township (Morris County), Checklist Ordinance deemed consistent.

Ms. Nordstrom announced that the second round of Highlands Area Exemption Certification training was held in May. Council Member Francis participated in the program. Ms. Nordstrom also noted that Gary Montroy, Business Administrator at Mahwah Township, gave a testimonial about the program to say it is not complicated, easy to implement, and staff is very helpful.

In closing, Ms. Nordstrom made note of a new summary memo which will be added to summarize what is in the resolution attached to it. This memo is available to Council and the public.

COUNCIL MEMBER REPORTS

There were no council member reports.

Chairman Rilee announced the Resolution.

Resolution – Petition for Plan Conformance submitted by the Borough of Oakland, Bergen County

Mr. Tjank made a motion on the Resolution. Mr. Vohden seconded it.

Chairman Rilee acknowledged representatives from Oakland Borough in attendance today: Councilmen Chris Visconti and Pat Pignatelli; Richard Kunze, Borough Administrator; and Steve Lydon, Planning Consultant.

Pat Pignatelli, Oakland Borough Councilmen – Mr. Pignatelli commented that the Borough of Oakland looks forward to working with the Highlands Council. As a health officer for 36 years, Mr.

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Pignatelli understands the value of the natural resources and the negative impact development can have on open space. Mr. Pignatelli thanked Council staff for their help and hopes Council moves forward with Oakland's Petition for Plan Conformance.

Ms. Nordstrom announced that staff member James Humphries will provide a PowerPoint presentation for Oakland Borough's Petition for Plan Conformance.

Mr. Humphries began a PowerPoint presentation which may be found on the Council's website:

http://www.nj.gov/njhighlands/about/calend/2014_meetings/may15/HighlandsCouncilMeeting_May_2014.pdf

Public Comment

Erica Van Auken, New Jersey Highlands Coalition – Ms. Van Auken commented that the Coalition supports Oakland Borough's petition for plan conformance. Ms. Van Auken added that the Coalition has addressed their comments to NJDEP on the Bi-County development project. Ms. Van Auken added that Council needs to have a seat in the discussion with the NJDEP regarding this development.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey commented that she supports Oakland Borough's petition for plan conformance, but seconds Ms. Van Auken's comments regarding Bi-County development and that Council should weigh into this project.

Council Comment

Mr. Holtaway asked what jurisdiction Council has on this development and agrees from an environmental standpoint that it is 1950's thinking. Chief Counsel Davis responded that this is litigation between NJDEP and the property owner, and Council was not involved. Chief Counsel Davis added that this does not impact the petition for Plan Conformance.

Ms. Carluccio asked if staff could prepare a consistency determination out of the settlement agreement as a normal course of business. Chief Counsel Davis responded that Council might in the future, in response to a specific development application, but added that, at the present time, there is no specific development approval before the Council, and only a petition for plan conformance.

Ms. Carluccio suggested that Council staff look into it and make comments on the settlement agreement and what development applications may come out of it. Chairman Rilee responded that it is appropriate to ask Chief Counsel to look into the settlement agreement.

Mr. Dressler suggested that Council send a letter to NJDEP to state that Council is against this development. Chairman Rilee responded that he does not agree that action be taken at this time but does authorize Council staff to research and get back to Council regarding this development. Ms. Nordstrom added that Council staff will be happy to do this.

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Ms. Carluccio also suggests that the center grant be “pulled” from Oakland’s petition for plan conformance.

Mr. Vohden commented that he cannot vote yes on this resolution since property owners have not been compensated.

Mr. Richko was present at 4:16pm.

There was continued discussion regarding the Pinnacle/Bi-County project and the level of approvals. Chief Counsel Davis suggested that technical questions regarding the effect of the proposed settlement of the litigation between a property owner and the DEP might be directed to Mr. Humphries, who is the staff member assigned to this petition. The Chairman agreed, and asked Mr. Humphries to respond. Mr. Humphries noted that part of the settlement agreement involves the fact that the property does have previous approvals and is eligible for an exemption. Mr. Humphries noted that since it is eligible for an exemption it falls under the original waste water management plan approved in 1990. Mr. Humphries added that there are more issues in the settlement agreement but that is one of the bases of the agreement and comments are being accepted on those determinations which Council staff can review further.

Chairman Rilee authorized staff to research the Pinnacle settlement agreement and get back to Council.

A roll call vote was taken. The resolution was APPROVED 8-4.

COMMITTEE REPORTS

Budget & Finance Committee

Chairman Rilee announced the Resolution.

Resolution – Approval of Contract to Develop a Fiscal Impact Assessment of the Highlands Water Protection and Planning Act and Associated Regional Master Plan

Chairman Rilee announced that this resolution was tabled last month and public comments were received at that time.

Mr. Francis made a motion on the Resolution. Mr. Richko seconded it.

Council Comment

Mr. Walton commented that he reviewed the resolution with staff and is still troubled. Mr. Walton added that he plans to vote no.

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Mr. Vohden asked if the Budget & Finance committee reviews the RFPs and suggests that the committee review RFPs prior to staff's recommendation.

A roll call vote was taken. The resolution was APPROVED 9-3.

Chairman Rilee announced the Resolution.

Resolution – Approval of Contract Modification for Water Use and Conservation Management Planning

Committee Chair Holtaway reported that the Budget and Finance Committee discussed this resolution at their meeting on May 8, 2014. Mr. Holtaway reported the resolution is for a modification of the Water Use and Conservation Management Plans (WUCMP) required by the RMP for protection of water resources. The current program was authorized via Resolution 2009-26 for an amount not to exceed \$1,000,000 with approximately \$500,000 to be used to develop the pilot program and the remaining to assist non-pilot towns. Since 2009 the Council has had in place a contract and scope of work with CDM Smith for their specialized technical assistance in developing these plans for an ongoing pilot program. Currently, there are 10 pilot project study areas involving 19 municipalities. To date 32 municipalities have a task included in their Plan Conformance Grant to develop and implement a WUCMP and are in need of specialized technical assistance. CDM Smith's technical expertise is needed for the program beyond the previously identified pilot areas and staff levels are not able to meet the anticipated workload relating to this task. Municipal professionals may require a significant learning curve to be able to perform the WUCMP work themselves and benefit from additional technical expertise. The proposed contract modification is based on the same scope of work as the 2009 contract agreement and the 2009 hourly bill rates. Staff recommends a contract modification to assist staff and municipalities with this complex and technical work. Staff proposes to use \$150,000 of the previously approved funding for direct technical guidance to Highlands staff, and to allow for CDM Smith to provide technical assistance to conforming and non-pilot municipalities in developing WUCMPs. This technical assistance may also support the RMP Monitoring Program development and next steps for the RMP Update process. Mr. Holtaway represented that the Budget and Finance Committee recommends Council approve this resolution to authorize a modification for Water Use and Conservation Management Plans.

Mr. Holtaway made a motion on the Resolution. Mr. Francis seconded it.

Public Comment

David Shope, owns property in Lebanon Township, NJ - Mr. Shope commented on Chairman Rilee's comments on page 2 of the Budget & Finance Committee minutes of May 8, 2014 regarding data analyses moving forward in the technical assistance. Chairman Rilee responded that he did not want previous data to be the end all. Mr. Shope commented that all assumptions should be on the table.

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Helen Heinrich, New Jersey Farm Bureau – Ms. Heinrich commented that these plans are important and she is interested in what is in these plans and what is covered. Ms. Nordstrom responded that these plans are not finished at the moment.

David Peifer, Association of New Jersey Environmental Commission – Mr. Peifer supports this contract modification and is awaiting the 32 towns who have been tasked with doing this work. Mr. Peifer urged Council to support this resolution.

There were no Council comments.

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

Chairman Rilee opened the meeting for public comments. He asked the public to refrain from commenting on Fenimore issues at this time as he will need to recuse himself for an Executive Session and Vice-Chair Alstede will chair that portion of the meeting along with public comments regarding Fenimore.

Public Comment

Julia Somers, New Jersey Highlands Coalition – Ms. Somers requested that Council make a presentation on how the new COAH rules will impact conforming towns and how it may impact their conformance obligations.

Hank Klumpp, owns property in the Highlands Preservation Area – Mr. Klumpp asked for the scientific findings that put his property in the preservation area. Mr. Klumpp also commented that 30% of open space funding should go to property owners. Mr. Klumpp also asked about the status of the committee for property owners.

Robert Bracken, Board of Directors of New Jersey Builder's Association – Mr. Bracken has concerns regarding Council's review of the RMP and would like the review to be as open and transparent as possible.

Mr. Tfank left the meeting temporarily at 4:57pm.

David Shope, owns property in Lebanon Township, NJ – Mr. Shope commented on issues raised by Mr. Moffitt in September, 2013 submitted to Council. Mr. Shope asked what criteria were done for an investigation which he asserted had taken place. Mr. Shope added that Council has an opportunity during the RMP update process to correct what he characterized as "past misdeeds."

Mr. Tfank returned to the meeting at 5:00pm.

Mr. Dressler asked Chairman Rilee to appoint a committee to address property compensation issues to report out by September with recommendations. Chairman Rilee responded that he will look into it for next meeting.

Public portion of the meeting was closed at 5:04pm.

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Chairman Rilee announced that he has recused himself from matters related to the Fenimore landfill, and that Vice-Chair Alstede would take over for this portion of the meeting, which concerned an Executive Session and public comments regarding the Fenimore landfill. Chairman Rilee then left the meeting room.

Vice-Chair Alstede announced the Resolution.

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 pending litigation in connection with the Fenimore Landfill, for which advice from counsel subject to the attorney-client privilege is required, and other matters involving attorney-client privilege.

NOW, THEREFORE, BE IT RESOLVED, that the Council may enter into closed session at its public meeting of May 15, 2014, 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. Walton made a motion to go into Executive Session. Mr. Holtaway seconded it.

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

[EXECUTIVE SESSION]

Mr. Dressler left the meeting at 5:58pm.

Vice-Chair Alstede closed the Executive Session and resumed the New Jersey Highlands Water Protection and Planning Council meeting at 5:58pm. Vice-Chair Alstede opened the meeting to public comment regarding Fenimore landfill.

Vice-Chair Alstede stated that Council is sympathetic to the residents of Roxbury Township and asked Chief Counsel Davis to make some comments regarding the Fenimore landfill:

Chief Counsel Davis noted the following:

- Highlands Council adopted resolution on October 13, 2011 designating a portion of the Fenimore landfill as a “Highlands Redevelopment Area.”
- As a precedent to that action under the Highlands Act and NJDEP Highlands Rules, the NJDEP had to first designate that site as a brownfield site under their jurisdiction. The applicant had to get that site designated as a brownfield and then came to Council to ask for a “Highlands Redevelopment Area.” Under Exemption 15 of the Highlands Act brownfield

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remediation is exempt from the jurisdiction of the Highlands Council and solely within the purview of the state NJDEP.

- Highlands Council redevelopment designation was in response to an application that contemplated an ultimate end use on that site of a solar facility.
- Council's actions in 2011 were from a purely planning point of view, consistent with some of the goals in the RMP to find and promote beneficial reuse of brownfields. The redevelopment designation was approved with conditions that certain Highlands resources were protected and those were conditions of the redevelopment area approval but that redevelopment area approval did not address technical human health requirements with respect to the operation or continued operation of the landfill or closing of the landfill.
- The requirements that the Council imposed in connection with the redevelopment designation would only apply once the landfill was capped and closed with the approval of the NJDEP; then and only then, if and when that happens and when an ultimate end use is proposed for the site, would the Highlands Council weigh in on the ultimate end use of the property to determinate whether or not that end use and the plans for that end use are consistent with the Highlands resource protections that were built into this Council's redevelopment designation.
- This is procedurally, administratively, and legally the bases of the Council's action and takes us to where we are today.

Vice-Chair Alstede opened the meeting for public comment specific to Fenimore landfill and comments are limited to three (3) minutes each.

Public Comment

Melissa Dachisen, Roxbury Township, NJ – Ms. Dachisen commented on how her family's way of life has changed due to the Fenimore landfill. Ms. Dachisen submitted pictures for the record.

Victor Dean, Ledgewood, NJ – Mr. Dean commented on his family's health issues due to the Fenimore landfill.

Barbara Giaquinto, Ledgewood, NJ – Ms. Giaquinto asked if Council's function is to protect the Highlands. Ms. Giaquinto urged Council to help with the Fenimore issue.

David Peifer, Association of New Jersey Environmental Commission – Mr. Peifer commented on the Fennimore landfill and that Council and Council staff should be actively involved regularly with NJDEP to monitor and provide input with the capping and cleaning of the landfill. Mr. Peifer renews his request to Council to remove the redevelopment designation until the landfill is capped cleaned, and closed.

Michelle Oliveira, Roxbury Township – Ms. Oliveira, a mother of two children, commented that her children suffer health issues due to the unhealthy air levels which at times put children in lockdown at their schools. Ms. Oliveira urged the Council to help with the Fenimore landfill issues.

Ken Collins, Andover, NJ – Mr. Collins commented that, in his opinion, Council broke the law by allowing Exemption 15 to move forward. Mr. Collins asked for the resolution number which

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granted the exemption 15. Chief Counsel Davis responded that the resolution number is 2011-35 dated October 13, 2011, and that it is available on the Council's website. Mr. Collins asked if Council looked into rescinding its decision. Mr. Collins asked Council to provide the residents of Roxbury Township with a detailed explanation and legal justification for the granting of this exemption.

Marie Felix, Flanders, NJ – Ms. Felix commented on the health issues her family has suffered. Ms. Felix urged Council to do something.

Marion Emery – Ms. Emery commented on her health effects due to the Fenimore landfill. Ms. Emery stated that she wears a gas mask because of the fumes due to the landfill. Ms. Emery urged Council to do something about this issue.

Arron Markworth, Flanders, NJ – Mr. Markworth asked Council to uphold the Highlands Act and stop NJDEP from making a bad situation permanently worse. Mr. Markworth also asked Council to investigate the series of events that led to this issue and form a committee to address this issue. Mr. Markworth submitted his comments for the record.

Brenda Parr, Ledgewood, NJ – Ms. Parr urged Council to help the residents of Roxbury Township and stop what is happening with the Fenimore landfill to help them to do a full investigation of this issue.

Elliott Ruga, Senior Policy Analyst, New Jersey Highlands Coalition – Mr. Ruga commented that today the people of Roxbury are here to beg the Highlands Council for help, and he stated that this is "an opportunity."

Kathy Panetta, Ledgewood, NJ – Ms. Panetta told her story about the health effects she and her family have had and asked Council to look at the RMP and see if the Fenimore site is congruent to the plan.

Mr. Tjank left the meeting temporarily at 6:39pm.

Marguerite Gargiulo, Flanders, NJ – Ms. Gargiulo wrote a letter to Governor Christie to meet with the REACT group. Ms. Gargiulo asked for Council to help in any way.

Mr. Tjank returned to the meeting at 6:47pm

Mr. Vohden left the meeting temporarily at 6:47pm.

Carl Panetta, Ledgewood, NJ – Mr. Panetta commented on how the way of life has changed since the Fenimore landfill. Mr. Panetta commented that this is an important situation which is out of control.

Mr. Vohden returned to the meeting at 6:50pm.

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Wilma Frey, New Jersey Conservation Foundation – Ms. Frey commented that Council has some responsibility to react in a positive way to this issue in the Highlands. Ms. Frey added that Council should take all evidence presented to Council and go to NJDEP and the Federal Environmental Protection and advocate for the residents of Roxbury Township.

Bill Marocco (sp?), Roxbury Township, NJ – Mr. Marocco thanked the Council for listening to the people of Roxbury. Mr. Marocco commented that no environmental investigation has been completed. Council needs to take a vested interest in this land and this project and make sure the NJDEP adheres to the RMP. Council should also look at Section 81 k. of the Highlands Act and make sure the DEP is following it and that they also follow the technical requirements NJ 726c for landfill remediation.

Kathy Hart, Succasunna, NJ – Ms. Hart gave her views on NJDEP regarding the Fenimore landfill issue. Ms. Hart urged Council to return the Roxbury community to the way it was before and asked Council to be an advocate.

Bob Madaros (sp?), Ledgewood, NJ – Mr. Madaros is a retired electrical engineer and has been fighting this landfill for over ten years. Mr. Madaros requests Council's assistance on this issue which affects the entire water system flowing down the Raritan River.

Mr. James left the meeting at 7:11pm.

Bob Schultz, Succasunna, President, REACT – Mr. Schultz suggested that Council has the power to rescind the exemption from the NJDEP. It will give the people of Roxbury some power to fight this issue.

Mark Bertneskie (sp?), Vernon, NJ – Mr. Bertneskie suggested that Council is slowly developing a regional problem with this landfill issue and Council should fix it.

Vice-Chair Alstede commented that Council understands what the residents of Roxbury are going through and certainly wishes Council had more jurisdiction to do something to help, but there are realities in place by law that bound the Council. If there is going to be an issue involving the landfill, Vice-Chair Alstede commented that he will be here, as he was elected Vice-Chair for the next year. Vice-Chair Alstede further commented that this is not an end tonight and Council will certainly continue to monitor the situation but does not want to give any false hopes on what Council can do because there are real boundaries. Council's interest in this situation is sincere and genuine. Vice-Chair added that Highlands staff is available to get copies of documents available to the public and to get a better understanding of the timeline or what Council can and cannot do and what the Legislature empowers us to do.

Council Comment

Ms. Carluccio commented that clearly the public is bringing to Council a public health and environmental health issues. Ms. Carluccio commented that Council has certain responsibilities by the Highlands Act and as a water resource agency Council has broad powers. Ms. Carluccio agreed

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with Mr. Peifer and Ms. Frey's statements made earlier. Ms. Carluccio proposed that Council rescinds the redevelopment area designation.

Ms. Carluccio made a motion to rescind the redevelopment designation decision. Mr. Dougherty seconded the motion.

Vice-Chair Alstede asked for the advice of Chief Counsel if Council needs to go into Executive Session. Chief Counsel Davis commented that Council can go into executive session on this matter, but his concern was that no public notice was given to take action on this motion, and advised that taking such action could be viewed as inconsistent with the Open Public Meetings Act.

Mr. Dougherty, who had seconded Ms. Carluccio's motion, stated that he agreed with the advice of the attorney, and that this matter would have to be publicly noticed. He stated that he would agree to table this matter on that basis.

Vice-Chair Alstede, on the advice of Chief Counsel, asked for a motion to table this motion until June's meeting.

Mr. Holtaway made a motion to table. Mr. Vohden seconded.

A roll call vote was taken. The MOTION TO TABLE was APPROVED 8-1.

Mr. Dougherty requested the Chief Counsel to prepare a memo explaining N.J.S.A .13:20-6 (l) of the Highlands Act regarding examinations and investigations so Council has a better understanding of Council's responsibilities and rights

Mr. Holtaway made a motion to adjourn the meeting. Mr. Walton James seconded it. The meeting was adjourned at 7:28pm.

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: 6/20/14

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant

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**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			✓			

PUBLIC COMMENTS SUBMITTED AT HIGHLANDS
COUNCIL MEETING ON MAY 15, 2014

①

My name is Hank Klumpp. I own 150 acres in the despicable Highlands Preservation Area. Mr. Chairman, perhaps your paid staff could earn their keep by finding the scientific study that put my land into the preservation and showing it to me. I am sure you are sick of hearing me ask for it now for 10 years. I am sick of having to ask for it. Show it to me or be honest and tell me it does not exist. There were no scientific findings used to establish the Highlands legislation on my property.

(2)

If there is any open space funding, at least 30 % should be dedicated to the Highlands because of the estimated 6 billion dollar loss the Highlands landowners have lost and deserve to be compensated for after 10 long years. I don't understand how this council is not standing up and working for fairness for us. You are all intelligent people who should know right from wrong. You know how wrong it is to steal property values from hard-working, honest people.

③

If even one of you could contact me - and answer my question honestly, I would finally believe that you are trying to work on this like you keep telling me when you shake my hand monthly.

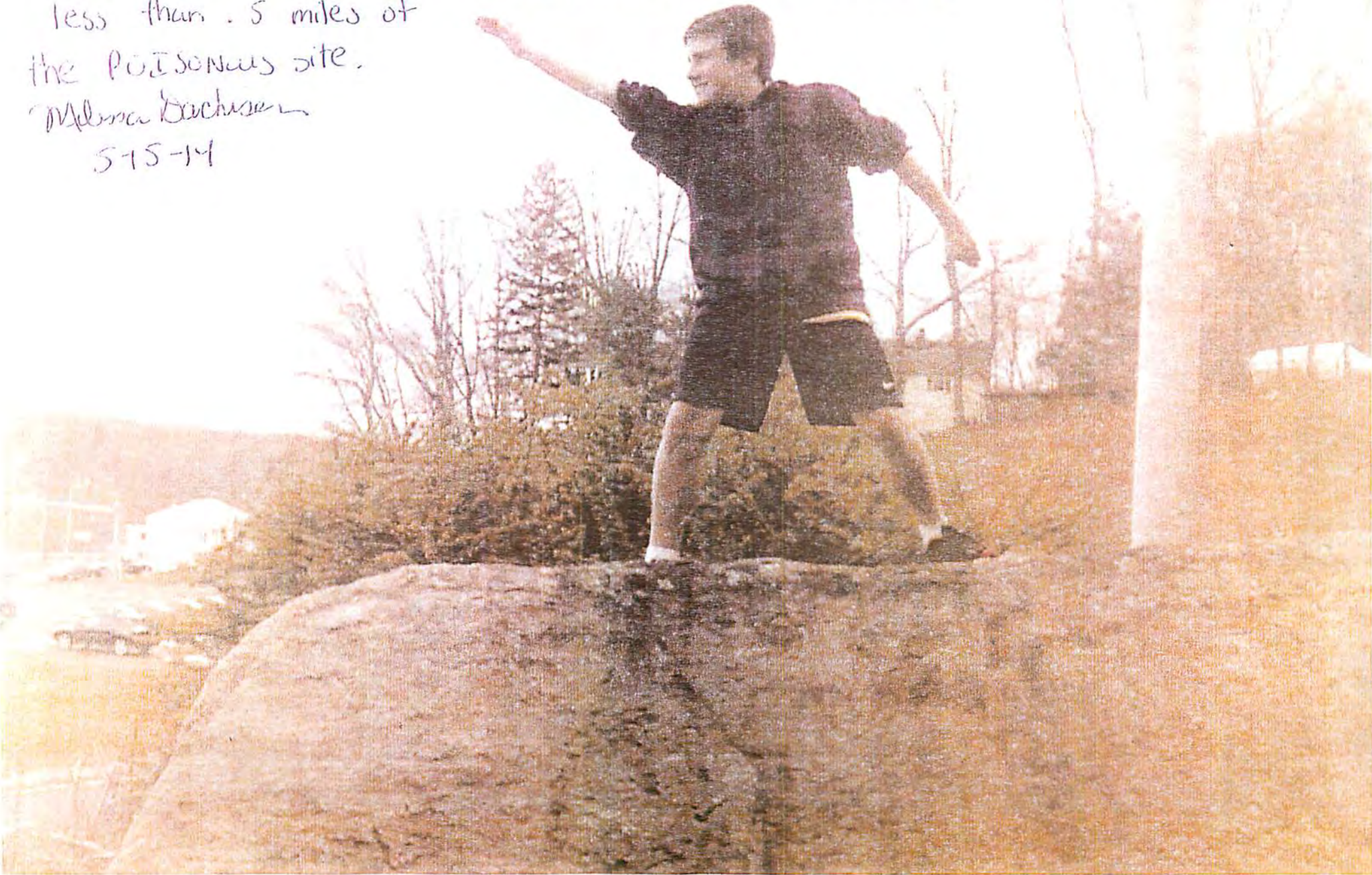
Hank Klumpp

24 Longview Road
Lebanon, N. J. 08833

This is my nephew, Matthew (6th gr.), at the last part of the hike
to the infamous Cliffs Ice Cream (April 2012). Note - The path
we followed is parallel to the TOXIC landfill which I was
not aware of at that time. Matthew lives in Poet's Peak,
less than .5 miles of
the POISONOUS site.

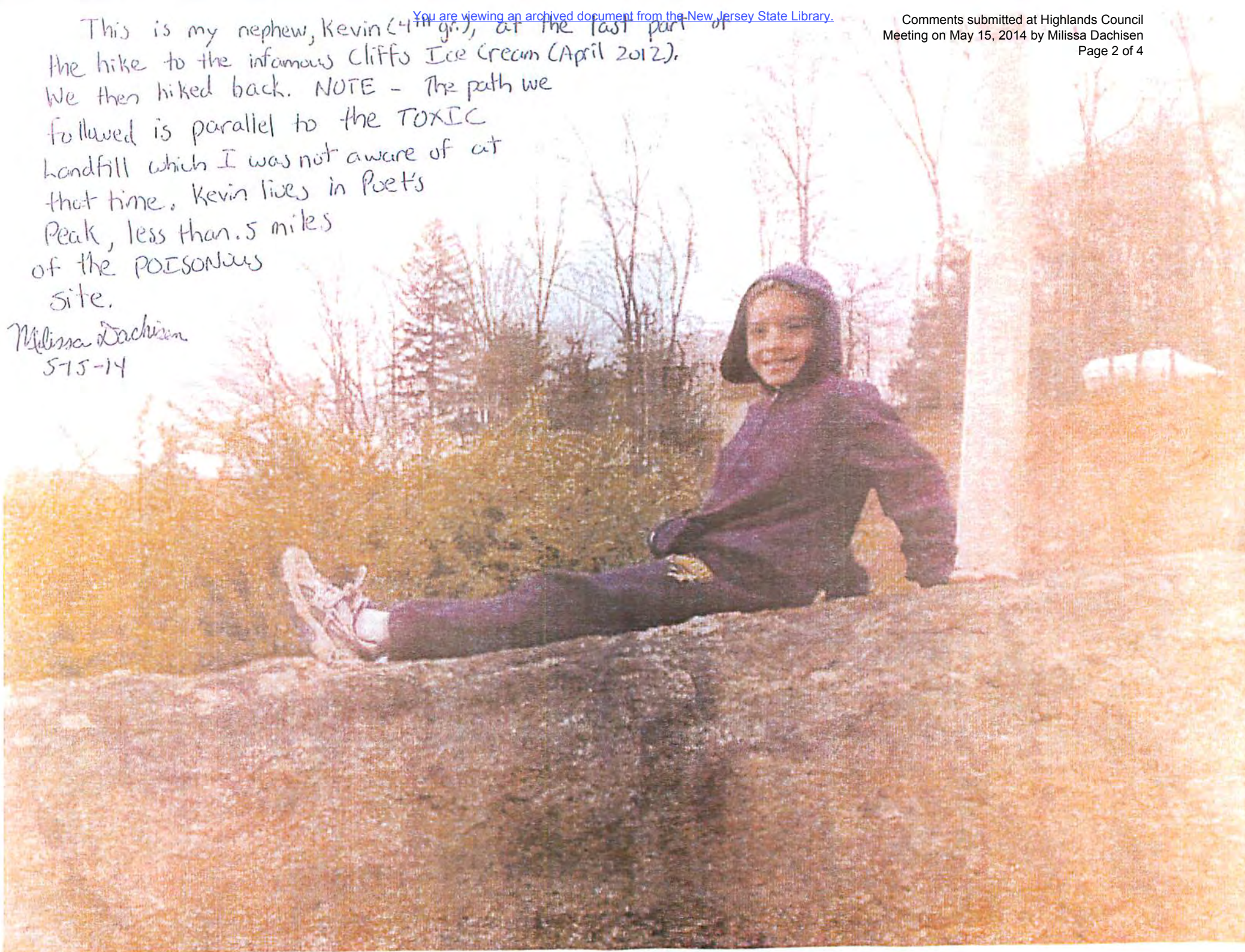
Milissa Dachisen

5-15-14



This is my nephew, Kevin (4th gr.), at the last part of
the hike to the infamous Cliffs Ice Cream (April 2012).
We then hiked back. NOTE - The path we
followed is parallel to the TOXIC
landfill which I was not aware of at
that time. Kevin lives in Poet's
Peak, less than .5 miles
of the POISONOUS
site.

Milissa Dachisen
5-15-14



Aug.

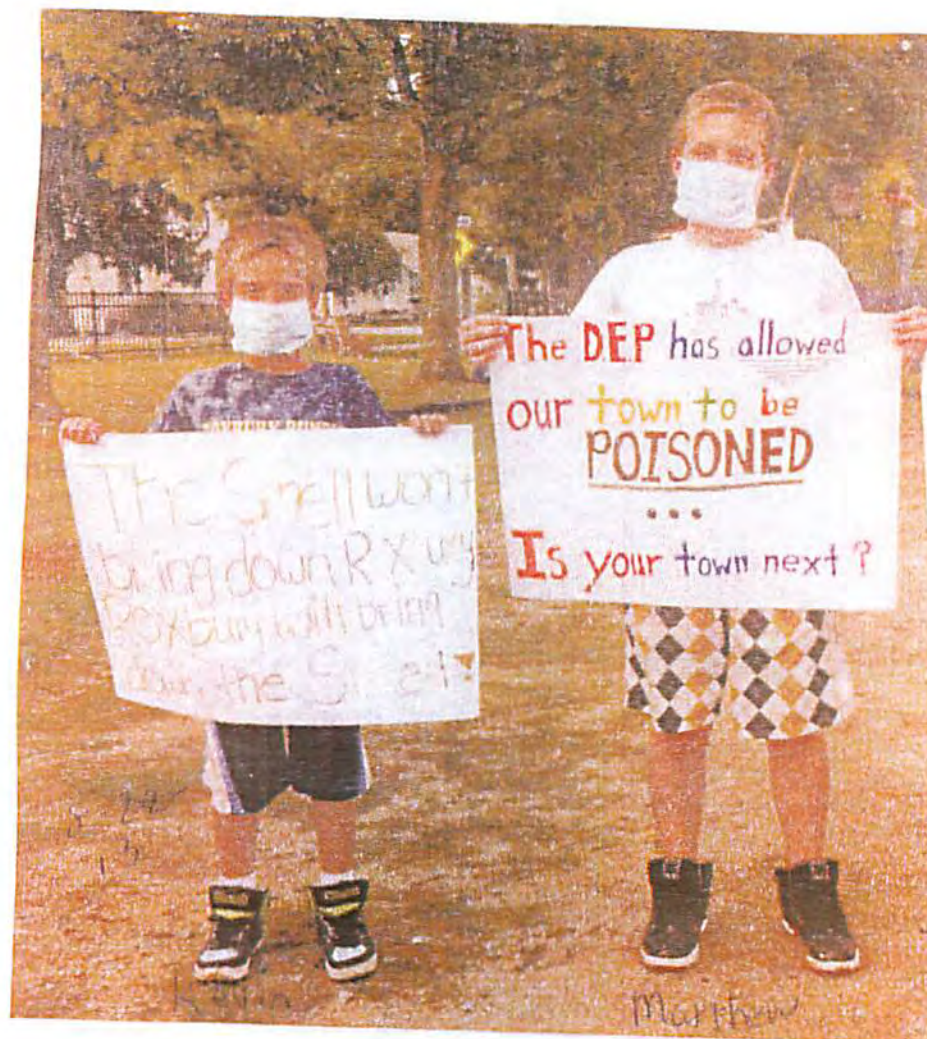
21, 2013

Kevin -
entering
6th gr.

Matthew -
entering 5th gr.

Roxbury Residents Are
Sick
Of The Suffocating Smell
Where Is Our Governor?

The D.E.P. has allowed
our town to be
POISONED
...
Is your town next?



We're all here today pleading for your help. Mistakes have been made by all parties involved in the Fenimore remediation, but just like the Pinelands Commission fighting for their land in the south, we hope you will fight for our water in the North.

The cursory and little researched DEP ACO that allowed a felon to turn an arguable undisturbed brownfield into an active C&D landfill has put the highlands, its water, and its residents at great risk.

The DEP Fenimore emergency order allows only for hydrogen sulfide gas mitigation, not landfill closure. They are now engaging in a taxpayer funded cover-up of their past mistakes from dealing with and putting public health and the highlands at risk.

The current plan is a permanent closure and they are overstepping the emergency order by remediating to standards that do not conform to the Highlands ACT, RMP, and water anti-degradation laws. According to test reports, methane is now an additional concern as it was recorded at hydrogen sulfide wells at combustible levels. The hydrogen sulfide scrubbers do not mitigate the methane risk.

Under your responsibility to implement the Highlands Water Protection and Planning Act, we are asking you to file an injunction against their activities or at minimum undertake or join the state legislature in a scientific bipartisan investigation of the DEP's past and present activities surrounding Fenimore.

If needed we are asking you to please form a special scientific committee to address this issue. While allocated within the DEP, the highlands council is independent of their supervision and control and has the ability to take legal action to protect the highlands.

The brownfield designation, arguably inappropriately granted, as well as the Highlands redevelopment was all based on a house of cards, as set of assumptions that no longer applies. For that reason, the DEP's action should not be allowed to continue without further consistency review.

These assumptions were:

Requirement	Analysis
Would have a de minimis impact on water resources and would not cause or contribute to a significant degradation of surface or ground waters;	Up to 60000 gallons of highlands water will be used per day in their gas scrubbers. 50k is the limit in the act. The capping area is more than the limit for impervious surface on the total property and more stormwater runoff will occur. There are minimal leachate controls as is and downstream water wells and trout producing Ledgewood brook are at risk, possibly including the downstream Raritan river.

Would cause minimal feasible interference with the natural functioning of animal, plant and other natural resources;	It became apparent early in the project that the solar array was never feasible despite all the parties involved hiding behind the ill advised plan. Acres of trees have been clear cut and habitats for endangered and non-endangered species put at risk. Nothing lives around Fenimore now, or if so for very long.
Will result in minimum feasible alteration or impairment of the aquatic ecosystem;	There is no underliner at Fenimore and the water table and tributary streams are at additional risk of contamination from the newer non-historical landfill waste. Besides gypsum wallboard, C&D material, and treated dredge material from water treatment plants and polluted rivers, it appears additional organic waste, asbestos, and other potentially toxic waste from Sandy cleanup was deposited. This material all came from DEP controlled recycling facilities that seem to have been under-regulated.
Is located or constructed as to neither endanger human life or property nor otherwise impair public health, safety and welfare;	The nearby properties are adjacent to the landfill. Gas emissions have traveled to schools and commercial properties. Leachate during storms overflows the catch basin to move down the mountain streams to Drakes Brook.
Would result in minimal practicable degradation of unique or irreplaceable land types, historical or archaeological areas, and existing public scenic attributes	Morris Canal and Ledgewood parks and nearby playing fields have been affected by the DEP's inability to control the situation. Events have been cancelled and fields closed for use.
Meets all other applicable NJDEP standards, rules, and regulations and State laws.	Standards are not being met. The DEP has not demonstrated that their actions conform to water anti-degradation laws. Now that the site has been further polluted from a sanitary landfill brownfield to what amounts to a toxic operating C&D facility, the DEP should be held responsible and stricter standards enacted to ensure conformity to the Highlands Act and RMP.

Even in prior public comments issues were raised that should be revisited and investigated to make sure the DEP doesn't get away with their mistakes and permanently damage the highlands and put its residents health at risk. While closure activities are under the jurisdiction of the DEP, how can they be trusted when it is their own mistakes they are remediating?

Some comments made by David Peifer of ANJEC that are now relevant to the DEP's activities since they are performing the duties of a licensed site remediation professional:

- **The site is located in a sensitive hydrologic position. Califon soils overlaying extremely permeably sandy loam allow downward movement of water and pollutants. Since Fenimore has no underliner, these layers cannot be relied upon to contain leachate.**
- **The leachate pond is not a properly constructed water impoundment, has no formal spillway and is located on or beyond the property boundary with municipal parkland.**
- **A steep slope graded and effectively geomembrane capped landfill is essentially 100% impervious to stormwater. No adequate systems are in place to protect the downstream stream channels. To do so will require designing a control facility to approximate post construction run-off equal to that which would result from "forest in good condition". Additionally this extensive control facility will need to be installed within the existing filled area with proper side slopes established. This will necessitate further disturbing unknown fill material.**
- **Allowing redevelopment decisions to be driven by private applicants is contrary to the concept of comprehensive regional planning and is likely to result in uncoordinated, unwise and possibly incomplete projects scattered throughout the Highlands Region. Due to the region's long history of industrial development and the generously vague definition of "Brownfield", ("A brownfield is defined under state law as "any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant.""). Such sites may be found in the Protection Zone or the Conservation Zone. This particular site is located in the Protection Zone.**

As Mr. Peifer predicted, the worst has come to pass, but future issues and further long term contamination is still a real possibility due to the ineptness of the DEP.

Please help us and uphold the spirit of the Highlands Act in any manner you are able:

- **Help us stop the DEP from making a bad situation permanently worse**
- **Investigate the series of events that led to this so justice can be served and that it never happens again**

Thank you for your time.

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WHEREAS, the New Jersey Highlands Region (Highlands Region) is an area of over 859,358 acres that consists of 88 municipalities in parts of seven counties – Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex and Warren; and

WHEREAS, the New Jersey Legislature found that the Highlands Region is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the population of the State of New Jersey, and also contains other exceptional natural resources such as clean air, contiguous forest lands, agricultural lands, wetlands, pristine watersheds, and habitat for fauna and flora, as well as sites of historic significance and recreational opportunities; and

WHEREAS, the Legislature found that the Highlands Region also provides a desirable quality of life and place where people live and work, that it is important to ensure the economic viability of Highlands communities and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities; and

WHEREAS, the Legislature found that the Highlands Region contains agricultural lands in active production and that these lands are important resources of the State that should be preserved, that the agricultural industry in the Region is a vital component of the economy, welfare, and cultural landscape of the Garden State and that maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible; and

WHEREAS, the Legislature found that the pace of development in the Highlands Region has dramatically increased, that the Region, because of its proximity to rapidly expanding suburban areas, is at serious risk of being fragmented and consumed by unplanned development and that the existing land use and environmental regulation system cannot protect the water and natural resources of the Highlands against the environmental impacts of sprawl development; and

WHEREAS, deeming protection of the Highlands Region an issue of State level importance, the Legislature enacted the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. (Highlands Act), to establish a regional approach to land use planning for the Highlands Region to replace the uncoordinated land use decisions of 88 municipalities, seven counties and a myriad of private landowners; and

WHEREAS, the Highlands Act delineates two areas in the Highlands Region: a Preservation Area, containing approximately 415,000 acres, and a Planning Area, containing approximately 445,000 acres; and

WHEREAS, the Legislature created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council) to advance a new regional approach to land use planning and to prepare a Regional Master Plan to protect and enhance the significant values of the Highlands resources throughout the entire Highlands Region; and

WHEREAS, the Preservation Area is an area with exceptional natural resource value that should be subject to stringent water and natural resource protection standards, policies, planning and regulation; and

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WHEREAS, the Planning Area is the area outside of the Preservation Area that should likewise be part of a comprehensive planning approach that serves to protect the water and other significant resources of the entire Highlands Region while also accommodating appropriate patterns of development, redevelopment and economic growth; and

WHEREAS, the Legislature found that such a new regional approach to land use planning shall be complemented by increased standards more protective of the environment established by the New Jersey Department of Environmental Protection (NJDEP) for development in the Preservation Area of the Highlands; and

WHEREAS, the Legislature found that this comprehensive approach should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the Highlands Region and the entire State; and

WHEREAS, Sections 8 and 10 of the Highlands Act mandate that the Highlands Council prepare and adopt the Regional Master Plan with the goal of protecting and enhancing the significant values of the resources in the Highlands Region; and

WHEREAS, Section 10 of the Highlands Act establishes goals for the Regional Master Plan for both the Preservation Area and Planning Area, including to protect, restore, and enhance the quality and quantity of the waters of the Highlands, to preserve environmentally sensitive lands, to preserve lands needed for recreation and conservation, to promote brownfield remediation and redevelopment, to preserve farmland, historic sites and other historic resources, to preserve outdoor recreation opportunities, to promote water resource conservation, and to promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities; and

WHEREAS, the Highlands Act establishes development goals in the Preservation Area, to prohibit or limit, to the maximum extent possible, construction or development which is incompatible with the Preservation Area; and

WHEREAS, the Highlands Act establishes development goals in the Planning Area, to encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from individual and cumulative adverse impacts; and

WHEREAS, Sections 11 and 12 of the Highlands Act specifically require that the Regional Master Plan be comprised of (a) a Resource Assessment that seeks to determine the amount and type of human development and activity that can be sustained by the Highlands Region's ecosystem while maintaining the Region's overall ecological values; (b) a Financial Component that details the costs of implementing the Regional Master Plan, and details the sources of revenue for covering those costs; (c) a Local Participation Component that provides for the maximum feasible local

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government and public input; (d) a Coordination and Consistency Component that details the ways in which local, State, and federal programs and policies may be best coordinated to promote the goals, purposes, policies, and provisions of the Regional Master Plan; (e) a Transportation Component that provides a plan for transportation system preservation; (f) a Smart Growth Component that assesses opportunities for appropriate development, redevelopment, economic growth and a transfer of development rights program, and includes a Land Use Capability Map; (g) a Land Use Capability Map for the Preservation Area and a comprehensive statement of policies for the development and use of land in the Preservation Area; and (h) a statement of policies, including a preservation zone element that identifies zones within the Preservation Area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights and minimum standards governing municipal and county master planning and development regulations; and

WHEREAS, after a careful analysis of the best available scientific and planning data and consultation with State, federal and local agencies pursuant to the Highlands Act, the Highlands Council adopted Resolution 2008-27 approving the Regional Master Plan on July 17, 2008 and, pursuant to the Highlands Act requirement for gubernatorial review, the Regional Master Plan thereafter became effective on September 8, 2008; and

WHEREAS, the Highlands Act creates a bifurcated system for municipal conformance with the Regional Master Plan – mandatory Plan Conformance for any portion of a municipality located wholly or partially in the Preservation Area and voluntary Plan Conformance for the municipalities with lands wholly in the Planning Area or for any portion of a municipality lying within the Planning Area; 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, pursuant to Sections 14 and 15 of the Highlands Act, the Highlands Council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof; 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

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WHEREAS, the Highlands Council approval of Resolution 2008-27 adopting the Regional Master Plan included the adoption of the Highlands Plan Conformance Guidelines that outlines the procedures, schedule, planning assistance, and benefits available for the submission of a Petition for Plan Conformance; and

WHEREAS, the Plan Conformance Guidelines provides a process for Basic Plan Conformance requiring the submission of plans and regulations that are immediately necessary to ensure protection of the Highlands resources and resource areas with more complex tasks to be completed in accordance with an Implementation Plan and Schedule as a condition of Plan Conformance; 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 \$100,000 allocation for each individual municipality for Basic Plan Conformance; and

WHEREAS, the Bylaws of the Highlands Council authorizes the Executive Director, as chief administrative officer, to approve contracts and issue payments up to \$25,000; and

WHEREAS, as directed, the Executive Director developed the Plan Conformance Grant Program, a program that splits Plan Conformance into the following seven steps or modules for administering the authorized grant funding: (1) and (2) Highlands municipal build-out analysis and report; (3) housing element and fair share plan; (4) Highlands environmental resource inventory; (5) master plan Highlands element; (6) Highlands Area land use ordinance; and (7) municipal Petition for Plan Conformance; and

WHEREAS, the Borough of Oakland is located entirely within the Highlands Region, and contains approximately 2,605 acres in the Preservation Area and 3,007 acres in the Planning Area; and

WHEREAS, on December 8, 2009, Oakland Borough submitted a Petition for Plan Conformance including a resolution for all lands lying in the Preservation Area, and on July 11, 2011 submitted an additional resolution for all lands lying in the Planning Area; and

WHEREAS, on July 14, 2010, the Executive Director deemed the Petition for Plan Conformance administratively complete, and on July 20, 2010, posted the Petition documents on the Highlands Council website and thereafter commenced staff review of the Petition for consistency with the Regional Master Plan; and

WHEREAS, on October 6, 2011, the Executive Director provided Oakland Borough with a Draft Consistency Review and Recommendations Report, which provides the staff's assessment of the

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Petition for Plan Conformance, the level of conformance with the Regional Master Plan, and recommendations for any further actions necessary for Plan Conformance; and

WHEREAS, the Executive Director provided Oakland Borough with a deliberative municipal response period allowing Oakland Borough to review and respond to the Draft Consistency Review and Recommendations Report; and

WHEREAS, on April 14, 2014, 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 documents on the Highlands Council website for a public review and comment period with written comments due on or before April 29, 2014; and

WHEREAS, the Highlands Implementation Plan and Schedule includes a detailed accounting of the existing Plan Conformance Grants and the allocation of additional grant funding in order to address the Highlands Act requirements for Plan Conformance funding; and

WHEREAS, on May 6, 2014, 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 May 15, 2014, the Highlands Council held a public hearing on Oakland Borough's Petition for Plan Conformance and provided an opportunity for public comment; and

WHEREAS, the Highlands Council accepts the recommendation of the Executive Director as stated in the Final Consistency Review and Recommendations Report; and

WHEREAS, according to the Highlands Act and the Plan Conformance Guidelines, Oakland Borough's compliance with an approved Final Consistency Review and Recommendations Report, the Highlands Implementation Plan and Schedule, the Highlands Plan Conformance Guidelines and the Highlands Act shall maintain Oakland Borough's status as conforming to the Regional Master Plan and all statutory benefits associated with Plan Conformance; and

WHEREAS, the Plan Conformance Guidelines recognize that conformance in the Planning Area is voluntary under the Highlands Act and provide that the period of an approval of a Petition for Plan Conformance shall be for a period of no more than six (6) years, or until six (6) months after the completion of a reexamination by Oakland Borough of its master plan and development regulations as required by the Municipal Land Use Law, or until one (1) year after the Highlands Council adopts its six-year reexamination of the Regional Master Plan, whichever time period is the shorter; the six (6) month and one (1) year periods provided herein allowing time for the submittal and processing of petitions for a re-examination of Plan Conformance before the Highlands Council; and

WHEREAS, the Plan Conformance Guidelines provide that no amendment to any master plan or development regulations applicable to the development and use of land in Oakland Borough shall be effective until Oakland Borough has submitted such amendment to the Highlands Council and such amendment has been found by the Council to be in conformance with the Regional Master Plan, or

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the Executive Director has notified Oakland Borough that such amendment does not affect the Highlands Council's prior finding of Plan Conformance; and

WHEREAS, the Plan Conformance Guidelines provide that following the receipt of any amendment to Oakland Borough's master plan or development regulations, the Executive Director is required to determine whether or not the amendment raises a substantive issue with respect to the conformance of the municipal master plan or development regulations with the Regional Master Plan, and

WHEREAS, the Plan Conformance Guidelines provide that if the Executive Director determines no such substantive issue is raised with respect to an amendment, the Executive Director shall certify such fact and notify the Clerk of Oakland Borough and the Highlands Council, and shall provide notice on the Highlands Council website, and such amendment shall thereupon take effect in accordance with its terms and applicable law; and

WHEREAS, the Plan Conformance Guidelines provide that if the Executive Director determines that an amendment raises a substantive issue with respect to the conformance of the municipal master plan or development regulations to the Regional Master Plan, the amended municipal master plan or development regulations shall be reviewed in accordance with the Plan Conformance Guidelines; 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 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 that the Highlands Council hereby approves Oakland Borough's Petition for Plan Conformance with conditions as set forth in the Final Consistency Review and Recommendations Report and the Highlands Implementation Plan and Schedule; and

BE IT FURTHER RESOLVED, that the Highlands Council hereby approves the Borough of Oakland's Highlands Implementation Plan and Schedule including the reallocation of the existing Plan Conformance Grant and the allocation of additional grant funding to pay for the reasonable expenses incurred to complete the Plan Conformance conditions; and

BE IT FURTHER RESOLVED, that the Executive Director is authorized to make any amendments and publicly release the Final Consistency Review and Recommendations Report, Highlands Implementation Plan and Schedule, and amend the Plan Conformance Grant Agreement consistent with direction from the Highlands Council, to properly effectuate the intent of the Council and thereafter execute the Report and Schedule on behalf of the Council; and

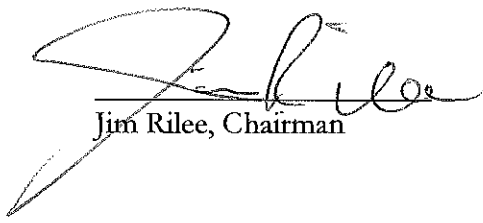
BE IT FURTHER RESOLVED, that Oakland Borough is hereby entitled to the statutory benefits associated with Plan Conformance as detailed in the Highlands Act, the Regional Master Plan and the Plan Conformance Guidelines, so long as Oakland Borough remains in conformance with the Regional Master Plan and to the extent such funds are made available by the State; and

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BE IT FURTHER RESOLVED, the Executive Director is authorized, consistent with direction from the Council, to oversee and monitor Oakland Borough's compliance with this Resolution and to take any and all action necessary in coordination with the Highlands Council.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 15th day of May 2014.


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

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MEETING MINUTES OF APRIL 17, 2014

PRESENT

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

VIA TELECONFERENCE

TRACY CARLUCCIO)

CALL TO ORDER 129TH meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:03pm.

ROLL CALL

Roll call was taken. Council Member Dougherty was absent. Council Member Carluccio was present via teleconference. All other members were present. *The following staff members were present: Margaret Nordstrom, Andrew Davis, Chris Danis, Kim Ball Kaiser, Judy Thornton, Corey Piasecki, Chris Ross, Nathan McLean, Carole Dicton, and Tom Tagliareni. Also present was 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 FEBRUARY 20, 2014

Mr. James introduced a motion to approve the minutes. Mr. Francis seconded it.

All members present voted to approve the Minutes of February 20, 2014. The minutes were APPROVED 12-0, with one abstention.

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CHAIRMAN'S REPORT

Chairman Rilee announced the formation of a Highlands Development Credit Bank (HDC) Committee and named Council Members Dressler, Francis, Visioli, Walton and himself as committee members.

ACTING EXECUTIVE DIRECTOR'S REPORT

Ms. Nordstrom gave her Acting Executive Director's report to update the Council on staff activities. Ms. Nordstrom announced that Council will consider Jefferson Township's Petition for Plan Conformance at today's meeting and will consider the Borough of Oakland's Petition for Plan Conformance in May.

Ms. Nordstrom reported on fifteen plan conformance implementation activities since Council's last meeting: Allamuchy Township, Checklist Ordinance deemed consistent, Exemption Determination Ordinance adopted and certification issued, and Master Plan Reexamination Report deemed consistent, and Master Plan Element deemed consistent; Chester Township, Checklist Ordinance deemed consistent, Exemption Determination certification issued, Highlands Environmental Resource Inventory deemed consistent, and Zoning Map Amendments deemed consistent; Montville Township, Highlands Land Use Ordinance deemed consistent, and Exemption Determination certification issued; Phillipsburg, Master Plan Reexamination Report and Resolution deemed consistent; Ringwood Borough, Exemption Determination Ordinance adopted and certification issued; Rockaway Township, Planning Area Petition Ordinance deemed consistent, and Checklist Ordinance deemed consistent; and West Milford Township, Checklist Ordinance deemed consistent.

Ms. Nordstrom announced that the following exemption determinations were made by approved municipalities since the last report:

Planning Area:	Mahwah Township, block 127, lot 21. Exemption 5 issued.
Preservation Area:	Mahwah Township, block 9, lot 18. Exemption 5 issued.

The next Highlands Area Exemption Certification training sessions are scheduled on May 6th and 8th, 2014.

Ms. Nordstrom also announced some staff updates:

- Staff member Kim Ball Kaiser was promoted to Senior Counsel
- Staff member James Humphries was promoted to Principal Planner/Highlands Development Credit Bank Coordinator
- Ian Shiland was hired as full-time GIS Specialist/Cartographer

In closing, Ms. Nordstrom stated that the Highlands Council Annual Report has been released and is available to the public on our website and in the lobby.

COUNCIL MEMBER REPORTS

Member Richko commented on the hiring of an Executive Director and the process. Member Richko recommended that a diverse and special committee be appointed so a broad search is conducted for the Executive Director position. Member Richko suggested recommendations of

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members for this special committee. Member Sebetich agreed with Member Richko's comments that a broad search be conducted and a diverse committee to interview candidates.

Chairman Rilee responded that he plans to call the Personnel Committee in the next couple of weeks to discuss the Executive Director position with the committee. Member Vohden asked what the responsibility is of the Personnel Committee. Chairman Rilee responded that the Personnel Committee's responsibility is to search for a candidate.

Member Dougherty was present at 4:10pm.

Member Carluccio commented that Council should conduct a broad national search for an Executive Director position. Member Francis commented that there is no rush. Council can take their time and review with Personnel Committee what Council's options are regarding the Executive Director's position.

Chairman Rilee announced the Resolution.

Resolution – Petition for Plan Conformance submitted by the Township of Jefferson, Morris County

Mr. James made a motion on the Resolution. Mr. Francis seconded it.

Ms. Nordstrom announced that staff members Chris Ross and Judy Thornton will provide a PowerPoint presentation for Jefferson Township's Petition for Plan Conformance.

Ms. Ross acknowledged Jeff Elam, Jefferson Township Engineer and Director of Public Works is in attendance today.

Ms. Ross began her PowerPoint presentation which may be found on the Council's website:

http://www.state.nj.us/njhighlands/about/calend/2014_meetings/apr17/PPT_Apr17_JeffersonPetition.pdf

Public Comment

Jeff Elam, Jefferson Township Engineer and Director of Public Works – Mr. Elam commented that he appreciates the cooperation of staff and is happy to be here and have Council consider Jefferson Township's petition.

Erica Van Auken, New Jersey Highlands Coalition – Ms. Van Auken commented that the Coalition is pleased Council is moving forward with Plan Conformance. Ms. Van Auken encouraged Jefferson Township to petition in the Township's Planning Area.

Council Comment

Mr. Richko asked if the funding covers the Planning Area of Jefferson Township. Ms. Ross responded that the funding does cover the Planning Area of the Township. Mr. Richko is disappointed that Jefferson Township did not consider to petition in the Planning Area.

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A roll call vote was taken. The resolution was APPROVED 14-0.

COMMITTEE REPORTS

Audit Committee

Chairman Rilee announced the Resolution.

RESOLUTION – Acceptance of Audit Report

Mr. Walton reported that an Audit Committee meeting was held on March 13, 2014 to review the audit report. Auditors gave us a clean bill of health. Mr. Walton added that the committee discussed a recommendation to the Council that it consider changing auditors from time to time.

Mr. Dougherty made a motion on the Resolution. Mr. Visioli seconded it.

A roll call vote was taken. The resolution was APPROVED 14-0.

Budget & Finance Committee

Chairman Rilee announced the Resolution.

Resolution – Modification To Existing Vertices, LLC Contract

Committee Chair Holtaway reported that the Budget and Finance Committee discussed this resolution at their meeting on April 15, 2014. Mr. Holtaway added that this modification is an optional mobile application which will be made available to conforming municipalities to use in support of mapping stormwater outfall locations. Vertices is the existing data management provider for the Highlands GIS Interactive map feature. This contract modification is for \$20,500 to develop the application and provide \$2,400 for the annual maintenance of the application and monies are included in the Council's RMP budget. Mr. Holtaway represented that the Budget and Finance Committee recommends Council approve this resolution.

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

Public Comment

Julia Somers, New Jersey Highlands Coalition – Ms. Somers commented that this is a great idea and supported the adoption of the resolution.

There were no Council comments.

A roll call vote was taken. The resolution was APPROVED 14-0.

Chairman Rilee announced the Resolution.

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MEETING MINUTES OF APRIL 17, 2014

Resolution – Approval of Contract to Develop a Fiscal Impact Assessment of the Highlands Water Protection and Planning Act and Associated Regional Master Plan

Committee Chair Holtaway reported that the Budget and Finance Committee discussed this resolution at their meeting on April 15, 2014. Mr. Holtaway reported that part of the RMP update process are where the economic impacts, rules, regulations, benefits, and burdens are and this will be the quantifications as the RMP update is done. The RFP was released for public bid on December 18, 2013 and closed on February 7, 2014. Four proposals were received and reviewed by a staff committee of seven. The top three teams were selected to participate in interviews which were held on March 31, April 1, and April 3, 2014. Each team was given a standard set of questions prior to the interview. After the interviews, Council staff met and discussed the merits of each proposal and recommended PlaceWorks for the award of contract. The process and qualification of this firm were presented by Council staff to the Budget and Finance Committee. Mr. Holtaway represented that the Budget and Finance Committee recommends Council approve this resolution to authorize the award of contract to PlaceWorks in the amount of \$136,455, with a contingency amount of \$13,534.

Mr. Francis made a motion on the Resolution. Mr. Richko seconded it.

Public Comment

Julia Somers, New Jersey Highlands Coalition – Ms. Somers commented that the resolution she read was blank where the name of the recommended firm would be, and added that she cannot support this resolution on that basis.

Council Comment

Mr. Walton asked to table this resolution for a month as he has concerns which were brought to his attention yesterday.

A discussion regarding the process for selection, and the possible tabling of the resolution ensued. A discussion regarding an email that was sent to the Council staff by an individual whose firm was not recommended for selection then followed. Certain Council Members expressed concerns regarding possible litigation that might ensue as a result of the adoption of the resolution.

The Council indicated that it would go into a closed session at the conclusion of the public portion of the meeting to discuss this further.

Chairman Rilee reopened the public session for this resolution.

Public Comment

George Stafford, New Jersey Highlands Coalition – Mr. Stafford commented on practical benefits of transparency in connection with the posting of resolutions without names of recommended firms.

Chief Counsel Davis responded that when Council posted the agenda and resolutions initially for the meeting, the resolutions were blank where the name of the recommended firms are now in

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place. Once the Budget & Finance Committee met and recommendations were approved by the Committee, and the Committee made the determination with respect to the recommended firm, the resolutions were revised with the firms' names, and then posted on the website prior to this meeting.

Patrick Moffitt, Peapack, NJ – Mr. Moffitt spoke in opposition to the resolution.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey commented on her concern that the economic analysis is a broad one with long-term success.

Helen Heinrich, New Jersey Farm Bureau – Ms. Heinrich commented that there needs to be diversity with the economic analysis.

Deborah Post, Chester Township – Ms. Post submitted for the record comments and questions on retaining PlaceWorks.

Jerry Kern, Pohatcong Township – Mr. Kern suggested Council delay this resolution for 30 days.

David Shope, owns property in Lebanon Township, NJ - Mr. Shope spoke in opposition to the resolution.

Chairman Rilee asked for a motion to table this resolution for thirty days. Chairman Rilee also added that Council will go into Executive Session to discuss this possibility of legal challenges to this resolution, and indicated that the Council will not take formal action on this resolution this evening.

Mr. Vohden made a MOTION TO TABLE this Resolution for thirty days. Mr. Dressler seconded it.

A roll call vote was taken. The resolution TO TABLE this Resolution was APPROVED 11-3.

Chairman Rilee announced the Resolution.

Resolution – Approval of Contract to Develop a Highlands Regional Master Plan Monitoring Program Recommendation Report

Committee Chair Holtaway reported that the Budget and Finance Committee discussed this resolution at their meeting on April 15, 2014. Mr. Holtaway reported that the Monitoring Program Recommendation Report of the Regional Master Plan Monitoring Program will identify indicators and milestones based on public comment, state agency coordination, technical advisory committees and information developed as part of the Fiscal Impact Assessment identifying key trends for the 2004-2014 time period and anticipated conditions for 2014-2024 period. The RFP was released for public bid on January 17, 2014 and closed on March 7, 2014. Two proposals were received and reviewed by a staff committee of eight. The teams were selected to participate in interviews which were held on March 31st, and April 4th. Each team was given a standard set of questions prior to the interview. After the interviews, Council staff met and discussed the merits of each proposal and recommended Regional Plan Association (RPA) for the award of contract. The process and qualifications of the firms were presented by Council staff to the Budget and Finance Committee, and a recommendation for the award was made by staff to the Committee. Mr. Holtaway represented that the Budget and Finance Committee recommends Council approve this resolution

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
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to authorize the award of contract to Regional Plan Association in the amount of \$150,000, with a contingency amount of \$15,000.

Mr. Richko made a motion on the Resolution. Mr. Visioli seconded it.

Public Comment

Julia Somers, New Jersey Highlands Coalition – Ms. Somers commented that RPA can do this job.

Deborah Post, Chester Township – Ms. Post submitted for the record her comments on retaining RPA.

Patrick Moffitt, Peapack, New Jersey – Mr. Moffitt spoke in opposition to the resolution.

David Shope, owns property in Lebanon Township, NJ - Mr. Shope spoke in opposition to the resolution. Mr. Shope submitted an article posted on RPA's website dated March 15, 2012.

Jerry Kern, Pohatcong Township – Mr. Kern commented that Council should not vote on RPA.

A roll call vote was taken. The resolution was APPROVED 10-4.

Chairman Rilee announced the Resolution.

RMP Update Committee

Mr. Walton left the meeting temporarily at 5:26pm.

Committee Chair Alstede reported that Chairman Rilee appointed Members Sebetich, Vohden and himself to serve on this committee which is required to fulfill the mandate that is in the law to review the RMP every six years. The committee will work with Council staff to bring about the research, matrix, perimeters, and milestones to formulate them in a way that everyone can evaluate and bring these items to the full Council for evaluation and incorporation for a revised RMP. Member Alstede reported the committee is fully dedicated to this task and meeting at the Highlands office on a monthly basis for workshop meetings, in addition to all of the public hearing sessions with working and interest groups. To date, the Committee has met twice on March 19, and April 9, 2014.

- Committee members received an overview/review of what is required by the Act and the process outlined in the RMP to address the requirements of the Act. The Act requires that the RMP be “revised and updated at least once every six years, after public hearings.”
- The RMP outlined an RMP Monitoring Program to meet this requirement. The Monitoring Program as outlined in the RMP includes identification of regional indicators and milestones to be measured; a fiscal impact assessment; and creation of an RMP Monitoring Report.

Mr. Walton returned to the meeting at 5:28pm.

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Committee members were briefed on the three RFPs that have been issued related to the Monitoring Program:

- Web Comment Portal
 - To collect initial public comments via Highlands Council website.
 - This contract was approved by Council January 2014.
- Fiscal Impact Analysis – discussed today and tabled for 30 days
 - To evaluate the economic effects of the Act and RMP on municipalities and counties wholly or partially within the region as compared to the State and other comparable regions.
 - The Budget and Finance Committee was also briefed on the responses to this RFP on Tuesday April 15.
- RMP Monitoring Program Recommendation Report (MPRR)
 - To synthesize the results of all efforts related to the Monitoring Program. This consultant will assist in the identification of indicators and milestones through the facilitation of:
 - Public Hearings
 - Stakeholder Meetings
 - Technical Advisory Committee (TAC) Meetings
 - Outreach Sessions

The Committee reviewed and discussed a preliminary monthly schedule of activities for completion of Monitoring Program work.

The Committee began discussing/defining its role and logistical parameters of its work:

- Committee decided it should meet at least monthly, more often as needed.
- Committee will provide reports to Council at monthly Council meetings via a memorandum
- Any final action required to be made by the Council will be reported up to the Council at a public meeting.

Member Alstede reported that no policies will be made at the committee level. The committee will make recommendations to the full Council. The committee meets again in May.

Ms. Carluccio commented on her concerns regarding the RMP Monitoring Program Recommendation Report, the Fiscal Impact Analysis and the RMP Update committee process.

Chief Counsel Davis noted that the recommendations were presented to the RMP Update Committee as well as the Budget & Finance Committee.

Acting Executive Director Ms. Nordstrom responded that Council will have plenty of interaction with the contractors because one of their responsibilities is to set up the public meetings and collate the comments Council receives. Council will take an active role and use the contractors as a resource. Ms. Nordstrom emphasized that this is Council's project.

Mr. James left the meeting temporarily at 5:31pm.

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Member Visioli and Dressler spoke in favor of the committee process. Member Sebetich indicated that the RMP Update Committee will be transparent and he has no concerns regarding the nature of the process.

Mr. James returned to the meeting at 5:33pm.

Chairman Rilee announced the Resolution.

Resolution – Authority for Plan Conformance and Highlands Project Review

Mr. Alstede made a motion on the Resolution. Mr. Francis seconded it.

There were no public comments.

There were no Council comments.

A roll call vote was taken. The resolution was APPROVED 13-1.

Chairman Rilee announced the Resolution.

Resolution – Election of Vice-Chair of the Highlands Council

Mr. Holtaway made a motion to nominate Kurt Alstede as Vice-Chair of the Highlands Council. Mr. James seconded it.

A roll call vote was taken. The resolution was APPROVED 13-1.

Chairman Rilee announced the Resolution.

Resolution – Election of Treasurer of the Highlands Council

Mr. Alstede made a motion to nominate Robert Holtaway as Treasurer of the Highlands Council. Mr. Richko seconded it.

A roll call vote was taken. The resolution was APPROVED 14-0.

Chairman Rilee called for a 5 minutes break at 5:43pm.

Mr. James left the meeting at 5:43pm.

The meeting was resumed at 5:50pm for public comment.

Chairman Rilee opened the meeting for public comments. He asked the public to refrain from discussing Fenimore issues at this time as he will need to recuse himself and Member Alstede will chair that portion of the public comments.

Joady Anderson, Lebanon Township – Ms. Anderson commented that she lost value on her 74 acres in the Preservation Area.

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Julia Somers, New Jersey Highlands Coalition – Ms. Somers commented on the process of having committee meetings further ahead of the Council meetings so the public has time to review the minutes.

Andrew Drysdale, Chester Township – Mr. Drysdale commented on loss of property values in New Jersey and across the country.

Hank Klumpp, owns property in the Highlands Preservation Area – Mr. Klumpp commented on the loss of property values. Mr. Klumpp also asked about the status of the landowner compensation committee as well as the opinion of Council on the dual appraisal.

Mr. Dressler left the meeting at 6:06pm

A discussion was held regarding the Council's positions in the past in connection with the dual appraisal approach.

Robert Frey, Pohatcong Township – Mr. Frey inquired about the status of the litigation by New Jersey Farm Bureau in regards to the 25 and 88 acre zoning in the Preservation Area.

Jerry Kern, property owner in Pohatcong Township – Mr. Kern asked if Council could make a motion to support a letter to the Legislators on dual appraisal. Mr. Kern also asked Council to follow up on Mr. Moffitt's comments and made comments on Ms. Anderson's comments earlier.

Member Vohden made a motion to pass a resolution in support of the dual appraisal and the funding to put in place to make it work. Member Walton seconded the motion.

Chief Counsel Davis recommended that the Council not take action on this matter at the present time as it was not listed on the Council's agenda that was published in connection with the Open Public Meetings Act.

No further action on this matter was taken.

Mr. Visioli left the meeting at 6:00pm.

Chairman Rilee asked the Council staff to review past resolutions to determine if any had been passed regarding the dual appraisal approach.

David Shope, owns property in Lebanon Township, NJ – Mr. Shope commented on Council's responsiveness.

Erica Van Auken, New Jersey Highlands Coalition – Ms. Van Auken commented on the issues regarding the dual appraisal method. Ms. Van Auken recalls the Council passing a resolution in support of finding a source for open space funding. She commented that without open space funding the dual appraisal is pointless.

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Patrick Moffitt, Peapack, New Jersey – Mr. Moffitt referred to a memorandum dated July 11, 2008 to Governor Corzine from Lisa Jackson copying Highlands Council staff regarding nitrate restrictions.

Deborah Post, Chester Township – Ms. Post commented on Ms. Anderson's comments earlier. Ms. Post also commented on Mr. Stafford's comments to Council on October 17, 2013 regarding real estate values. Ms. Post submitted her comments for the record.

George Stafford, New Jersey Highlands Coalition - Mr. Stafford commented on Ms. Post's comments that all assessed values are based on market values.

Rick Sparling, Jefferson Township – Mr. Sparling commented on lost property values and stormwater issues due the Highlands Act.

Mr. Walton left the meeting at 6:27pm.

Chairman Rilee announced that he has recused himself from matters related to the Fenimore landfill, and that Vice-Chair Alstede would take over for this portion of the meeting, which concerned public comments regarding the Fenimore landfill. Chairman Rilee then left the meeting room..

Vice-Chair Alstede opened the public comments regarding Fenimore

Mirna Hernandez – Ms. Hernandez commented on the history of the Fenimore landfill issue asks Council to assert their powers and petition the State legislature.

David Peifer, Association of New Jersey Environmental Commission – Mr. Peifer commented on the Fenimore landfill and stated that the conditions of the landfill have changed significantly since Council took action on the property as a redevelopment area status. Mr. Peifer requested that Council rescind that redevelopment status until there is a no action letter from the NJDEP.

Ken Collins, Andover, NJ – Mr. Collins commented on the Fenimore landfill and mentioned that it has had a disastrous effect on an area in the Highlands region. Mr. Collins requested that the Highlands Council assert jurisdiction over the NJDEP landfill closure plan pursuant to Section 81 of the Highlands Act. Mr. Collins submitted his comments, along with other materials for the record.

Mr. Richko left the meeting temporarily at 6:45pm.

Mr. Richko returned to the meeting at 6:48pm.

Laurie Lucer, Ledgewood, NJ – Ms. Lucer commented on health issues to the residents and children who live near the Fenimore landfill. Ms. Lucer hopes the Council can rectify their action.

Brenda Isherwood, Succasunna, NJ – Ms. Isherwood commented on the Fenimore landfill and its effects on the community of Roxbury and surrounding towns. Ms. Isherwood urges Council to undo what has been done to New Jersey.

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Erica Van Auken, New Jersey Highlands Coalition –Ms. Van Auken echoes what Mr. Peifer said and added that the remediation was not given the attention it deserves and people are suffering from it. Ms. Van Auken hopes Council uses their authority to help rectify this situation.

Bob Schultz, Succasunna, President, REACT – Mr. Schultz commented that what is happening at the Fenimore landfill in Roxbury is a travesty. Mr. Schultz commented that a petition was sent by the people to the Agency for Toxic Substances and Disease Registry (ATSDR) and the ATSDR accepted their petition and said it was a “health hazard”. Schultz urged Council to rectify this situation and help Roxbury.

Brenda Isherwood – Ms. Isherwood commented that all Council members receive the documentation submitted by Mr. Collins.

Marion Emery – Ms. Emery commented on her health effects due to the Fenimore landfill. Ms. Emery added that she has to wear a gas mask in her own home and cannot continue to live like this.

Vice-Chair Alstede commented that Council is listening and understands the impact the landfill has on the community and the personal lives of Roxbury residents. Vice-Chair Alstede asked Chief Counsel Davis about the designation process for the Fenimore landfill, and about inquiries received by the Council.

Chief Counsel Davis responded that, to date, two letters were received on this topic and responded to. Chief Counsel Davis added that the jurisdiction for landfill closure is with the NJDEP, and not the Council.

Vice-Chair Alstede asked if Council has the authority to rescind the redevelopment area. Chief Counsel Davis responded that he will research this issue and report back to Council at the next meeting.

Member Richko asked if a letter can be sent to the NJDEP.

Vice-Chair Alstede concluded that Highlands Council staff will do the appropriate research and put on Council’s agenda next month to report out on this issue.

Public portion of the meeting was closed at 7:10pm.

Chairman Rilee returned to the meeting and announced the next Resolution.

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 anticipated litigation or contract negotiations in which the Highlands Council may become a party in connection with the potential approval

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
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of a contract to develop a fiscal impact assessment of the Highlands Water Protection and Planning Act and associated Regional Master Plan, for which advice from counsel subject to the attorney-client privilege is required, and other matters involving attorney-client privilege.

NOW, THEREFORE, BE IT RESOLVED, that the Council may enter into closed session at its public meeting of April 17, 2014, 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. Holtaway made a motion to go into Executive Session. Mr. Francis seconded it.

Ms. Carluccio left the meeting via telephone conference at approximately 7:13pm.

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

Chairman Rilee called the Executive Session to order and stated that action will not be taken after the session.

[EXECUTIVE SESSION]

Chairman Rilee closed the Executive Session and resumed the New Jersey Highlands Water Protection and Planning Council meeting at 7:44pm.

The meeting was adjourned at 7:44pm.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MEETING MINUTES OF APRIL 17, 2014

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: 5/16/14

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			✓			



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Oakland Borough

Oakland Borough in Bergen County has 2,605 acres in the Preservation Area and 3,006 acres in the Planning Area of the Highlands Region. The municipality submitted a Petition for Plan Conformance for both areas. This page contains links to documents related to the Township's conformance with the Highlands Regional Master Plan.

Note: For faster downloads, right-click on a file and select "Save Target As..." to save to your computer.

Approved Petition for Plan Conformance

Oakland Borough's Petition for Plan Conformance was approved by the Highlands Council on May 15, 2014.

Council Approved Documents

- [To come](#)

Materials from Public Hearing

- [Petition Presentation](#) (pdf)
- [Press Release](#) (pdf)
- [Resolution 2014-15](#) (pdf)

Final Posting Prior to Public Hearing

The documents below include all edits made prior to Highlands Council consideration of Oakland Borough's Petition for Plan Conformance.

- [Final Draft Consistency Review & Recommendations Report](#) - revised (342 KB pdf)
- See additional Petition materials below.

Petition Posting for Public Comment

A public comment period was held from April 14 through 29, 2014 and announced by [public notice](#). Comments received and Highlands Council responses will be posted prior to a public hearing of this Petition. The following documents constitute the municipality's final submission to the Highlands Council and include the Final Draft Consistency Review and Recommendations Report prepared by Highlands Council staff for Highlands Council consideration of the full Petition.

- All documents listed below as one compressed file: [Petition Posting for Public Comment](#) (28.2 MB zip)
- Individual documents:
 - [Final Draft Consistency Review & Recommendations Report](#) (337 KB pdf)
 - [Highlands Implementation Plan & Schedule](#) (232 KB pdf)
 - [Highlands Environmental Resource Inventory \(ERI\)](#) (461 KB pdf)
 - [Highlands ERI Figures](#) (11.7 MB pdf)
 - [Highlands Master Plan Element](#) (525 KB pdf)
 - [Highlands Master Plan Element Exhibits](#) (5.14 MB pdf)
 - [Highlands Land Use Ordinance](#) (837 KB pdf)
 - [Highlands Land Use Ordinance Figures](#) (9.77 MB pdf)

****PLEASE NOTE:** The documents provided on this page include a complete history of the municipality's Petition for Plan Conformance. The most current versions of Plan Conformance documents are at the top of the page, with prior drafts included below. Documents below this line are included for reference only.

Administratively Complete Petition for Plan Conformance

The following documents comprise all required components of the municipal Petition for Plan Conformance, which was deemed administratively complete by the Highlands Council.

Administrative Completeness Letters

- [Completeness Letter dated July 14, 2010](#) (213 KB pdf)
- [Completeness Letter dated January 29, 2010](#) (826 KB pdf)


Petition Documents

- All documents listed below as one compressed file: [Municipal Petition for Plan Conformance](#) (20 MB zip)
- Individual files:
 - [Petition Cover Letter](#) (376 KB pdf)
 - [Petition Submittal Checklist](#) (88 KB pdf)
 - [Preservation Area Resolution dated November 24, 2009](#) (432 KB pdf)
 - [Record of Public Involvement](#) (235 KB pdf)
 - [Current List of Planning/Regulatory Documents](#) (52 KB pdf)
 - Modules 1 and 2: See **Highlands Municipal Build-Out Report** below

- Module 3:
 - [Affordable Housing Summary](#) (1.7 MB pdf)
- [Module 4 Highlands ERI](#) (20.7 MB pdf)
- [Module 5 Master Plan Highlands Element](#) (670 KB pdf)
- [Module 6 Highlands Land Use Ordinance](#) (909 KB pdf)
- Module 7:
 - [Municipal Self-Assessment Report](#) (216 KB pdf)
 - [Municipal Self-Assessment Checklist](#) (97 KB pdf)
 - [Implementation Plan and Schedule](#) (97 KB pdf)
- [Plan Conformance Comparison](#) (39 KB pdf)

Supporting Documents

- Municipal Resolution: [Notice of Intent](#)
- Municipal Resolution: [COAH extension](#)
- [Initial Assessment Grant Report](#) (pdf)
- [Highlands Municipal Build-Out Report](#) (pdf)
 - [Supporting files](#) (37 MB zip)

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New Jersey Highlands Council

100 North Road

Chester, NJ 07930

908-879-6737

RESOLUTION 2014-16

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF CONTRACT TO DEVELOP A FISCAL IMPACT ASSESSMENT OF THE HIGHLANDS WATER PROTECTION AND PLANNING ACT AND ASSOCIATED REGIONAL MASTER PLAN

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, section 6.g of the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts to effectuate the purposes of the Highlands Act; and

WHEREAS, on July 17, 2008, the Highlands Council adopted Resolution 2008-27 thereby adopting the Highlands Regional Master Plan (RMP), which became effective September 8, 2008; and

WHEREAS, section 8a. of the Highlands Act states that the RMP shall be periodically revised and updated at least once every six years, after public hearings; and

WHEREAS, Policy 10A5 of the RMP states that to ensure the long term success of the RMP, the Highlands Council evaluate regional conditions, identify new or emerging issues, and develop future RMP priorities through the tracking and monitoring of regional indicators; and

WHEREAS, Objective 10A5a of the RMP states that the Highlands Council prepare a Highlands RMP Monitoring Review Report at least every six years to ensure that the RMP is meeting its goals; and

WHEREAS, Objective 10A5b of the RMP states that the Highlands Council prepare a fiscal impact assessment that measures the overall economic health of the Region as compared to the rest of the State, to be included in the Highlands RMP Monitoring Review Report; and

WHEREAS, in consideration of the requirements of the Act and RMP, the Highlands Council intends to develop a fiscal impact assessment demonstrating the economic effects of the Act and the RMP on municipalities and counties wholly or partially within the region as compared to the State and other comparable region; and

WHEREAS, to support the Highlands Council with implementation of this program, the Highlands Council staff prepared a Request for Proposal (RFP) which was released to the public on December 18, 2013 seeking firms to advise and assist the Highlands Council; and

WHEREAS, four firms submitted a response and proposal on or before the deadline of February 7, 2014; and

WHEREAS, the Highlands Council staff has reviewed its findings with the Budget and Finance Committee of the Council on April 15, 2014, and this committee has reviewed the staff findings, and process to evaluate the submissions, and further determined that funds are available for the award of a contract pursuant to this RFP; and

RESOLUTION 2014-16

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF CONTRACT TO DEVELOP A FISCAL IMPACT ASSESSMENT OF THE HIGHLANDS WATER PROTECTION AND PLANNING ACT AND ASSOCIATED REGIONAL MASTER PLAN

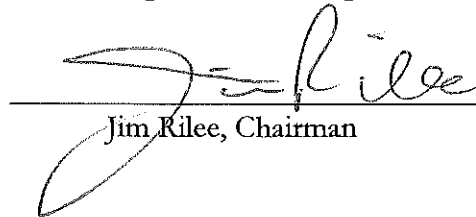
WHEREAS, the Highlands Council staff recommends that The Planning Center DC&E/PlaceWorks be awarded a contract to address the needs articulated by the Highlands Council's RFP and further recommends that the Highlands Council authorize the Executive Director to enter a contract in connection with the RFP and the proposal of The Planning Center DC&E/PlaceWorks;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that:

The Executive Director, or his/her designee, is hereby authorized to enter into a contract with The Planning Center DC&E/PlaceWorks for an amount not to exceed, \$136,455 with a contingency of \$13,645, to be allocated at the discretion of the Executive Director, for a total of \$150,100.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 15th day of May, 2014.



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



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Jefferson Township

Jefferson Township in Morris County has 3,303 acres in the Planning Area and 24,080 acres in the Preservation Area of the Highlands Region. The municipality has submitted a Petition for Plan Conformance for its Preservation Area. This page contains links to documents related to the Township's petition.

Note: For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer.

Approved Petition for Plan Conformance

Jefferson Township's Petition for Plan Conformance was approved by the Highlands Council on April 17, 2014.

Council Approved Documents

- To be posted.

Materials from Public Hearing

- [Petition Presentation](#) (pdf)
- [Press Release](#) (pdf)
- [Resolution 2014-7](#) (pdf)

Final Posting Prior to Public Hearing

The documents below include all edits made prior to Highlands Council consideration of Jefferson Township's Petition for Plan Conformance.

- All documents listed below as one compressed file: [Final Posting Prior to Public Hearing](#) (485 KB zip)
- Individual files:
 - [Final Draft Consistency Review & Recommendations Report](#) (266 KB pdf)
 - [Highlands Implementation Plan & Schedule](#) (232 KB pdf)

Petition for Public Comment

A public comment period was held March 14 -28, 2014 and announced by [Public Notice](#). The following documents constitute the municipality's final submission to the Highlands Council prior to its consideration of the full Petition.

- All documents listed below as one compressed file: [Petition Posting for Public Comment](#) (16 MB zip)
- Individual documents:
 - [Final Draft Consistency Review & Recommendations Report](#) (255 KB pdf)
 - [Highlands Implementation Plan & Schedule](#) (231 KB pdf)
 - [Highlands Environmental Resource Inventory \(ERI\) Draft](#) (473 KB pdf)
 - [Highlands ERI Figures](#) (11.9 MB pdf)
 - [Highlands Master Plan Element Draft](#) (223 KB pdf)
 - [Highlands Master Plan Element Exhibits](#) (2 MB pdf)
 - [Highlands Checklist Ordinance Draft](#) (160 KB pdf)
 - [Highlands Checklist Ordinance Exhibit](#) (1 MB pdf)

****PLEASE NOTE:** The documents provided on this page include a complete history of the municipality's Petition for Plan Conformance. The most current versions of Plan Conformance documents are at the top of the page, with prior drafts included below. Documents below this line are included for reference only.

Administratively Complete Petition for Plan Conformance

Jefferson Township's Petition for Plan Conformance has been deemed [administratively complete](#) by the Highlands Council.

- All documents listed below as one compressed file: [Municipal Petition for Plan Conformance](#) (16.5 MB zip)
- Individual Documents:
 - [Cover Letter](#) (149 KB pdf)
 - [Preservation Area Resolution](#) (279 KB pdf)
 - [Petition Submittal Checklist](#) (111 KB pdf) (Prepared by Highlands Council Staff)
 - [Record of Public Involvement](#) (59 KB pdf) (Meeting Minutes from Township Website)
 - [Current List of Planning/Regulatory Documents](#) (64 KB pdf) (Prepared by Highlands Council Staff)
 - Modules 1 and 2: [Highlands Municipal Build-Out Report](#) (2.98 MB pdf)
 - [Supporting Files](#) (34 MB zip)
 - Module 4: [Highlands ERI](#) (677 KB pdf) (Prepared by Highlands Council Staff)
 - [Highlands ERI Figures](#) (10.7 MB pdf)
 - Module 5: [Master Plan Highlands Element](#) (391 KB pdf)
 - Module 6: [Highlands Land Use Ordinance](#) (842 MB pdf)
 - Module 7:
 - [Municipal Self Assessment Report](#) (203 KB pdf)

- [Implementation Plan and Schedule](#) (200 KB pdf) (Provided by Highlands Council Staff)

Supporting Documents

- Municipal Resolution: [Notice of Intent](#) (703 KB pdf)
- Municipal Resolution: [COAH extension](#) (707 KB pdf)





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JIM RILEE
Chairman

MEMORANDUM

To: Council Members

From: Margaret Nordstrom, Acting Executive Director

Subject: Resolution – Authorizing Contract to Develop a Fiscal Assessment of RMP and Act

Date: 5/6/2014

The attached resolution would authorize the award of a contract to a consultant to assist the Council and staff with the preparation of a fiscal analysis of the impact of the Regional Master Plan and the Highlands Act. This analysis is a key component of the RMP update which is now under way. An RFP was issued requesting proposals on December 18, 2013. Four responses were received by the closing date of February 7, 2014. The responding entities, and their proposed costs, were as follows:

- Regional Plan Association (with Econsult Solutions and University of Pennsylvania's Institute for Urban Research as subs) (\$150,000)
- The Louis Berger Group (\$149,854)
- 4Ward Planning (with Econsult Solutions as a sub) (\$127,422)
- PlaceWorks/DC&E (with Mercer Associates as a sub) (\$136,455)

The entities that received the highest technical ratings were all very closely grouped, and the fourth firm's score was significantly lower. The top three firms (RPA, 4Ward and PlaceWorks) were invited in for interviews, at which time staff posed a series of identical questions to each respondent, in order to better understand the terms of each respondent's submission.

The results of this analysis were presented to the Budget and Finance Committee of the Council, as well as the RMP Update Committee of the Council prior to the Council's April 17, 2014 meeting. At the April 17, 2014 Council meeting the Budget and Finance Committee reported the results of its meeting at which it reviewed the process and the staff's recommendation to award the contract to PlaceWorks/DC&E, and the Budget and Finance Committee recommended that the Council award the contract to this firm.

May 6, 2014

Page 2

Pursuant to some questions raised by Council Members at the April 17, 2014 meeting, the Chairman tabled the resolution, and carried it to the May 15, 2014 meeting. In the intervening time, the staff responded to certain concerns raised by certain Members, and we are now bringing the matter back before the Council with our recommendation to award the contract to Placeworks/DC&E.



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JIM RILEE
Chairman

MEMORANDUM

To: Budget & Finance Committee

From: Margaret Nordstrom, Acting Executive Director

Subject: Committee Meeting Minutes – April 15, 2014

Date: 4/15/14

A Budget and Finance (B&F) Committee was held on Tuesday, April 15, 2014 at 2:00pm at the Highlands office in Chester. Committee Members present: Members Holtaway (Chair)(by phone), and Rilee (by phone). Absent: Member James

Staff Members present: Margaret Nordstrom, Andy Davis, Chris Danis, Corey Piasecki, Nathan McLean, and Annette Tagliareni.

Also present: Peter Simon, Assistant Counsel, Governor's Authorities Unit (by phone)

Ms. Nordstrom began the committee meeting to discuss the first item on the agenda:

Grants program overhaul- pre-application process for ag sustainability and economic development.

Ms. Nordstrom gave an overview of approach for developing a pre-application process as outlined in the Committee's packets.

Member Holtaway asked if the check-off chart would be provided. Ms. Nordstrom said it would be provided to the committee members.

Modification of VERTICES, LLC Interactive GIS data Contract

Ms. Danis gave an overview of the VERTICES, LLC Interactive GIS data Contract as outlined in her memorandum to the Committee on April 1, 2014.

April 15, 2014

Page 2

This municipal mobile application will allow municipalities to create a GIS map and image for the stormwater outfalls in their community that builds upon the NJDEP stormwater mapping requirement. Highlands Council staff recommends a modification to the Vertices data development and management services contract for a not to exceed amount of \$20,250 to develop a Stormwater Management Interactive Mapping application to enhance the existing Highlands GIS Interactive mapping data developed by Vertices. These monies are included in the Council's Regional Master Plan (RMP) budget. Mr. McLean explained that he evaluated potential alternative sources for this work and the costs would be approximately \$107,000 for a similar product.

Highlands staff also recommends a modification to the existing annual maintenance contract of \$2,400 to support the stormwater management web application. These monies are included in the Highlands Council Operating budget.

Committee Chair Holtaway made a motion to approve the contract for Council's consideration at the April 17, 2014 meeting, Chairman Rilee seconded the motion and all approved.

Fiscal Impact Assessment in Support of the RMP Monitoring Program

Mr. Piasecki gave an overview of the Fiscal Impact Assessment process as outlined in his memorandum to the Committee April 10, 2014.

The FIA component of the Monitoring Program is intended to demonstrate the economic effects of the Highlands Act (Act) and RMP on municipalities and counties wholly or partially within the region as compared to the State and other comparable regions. The FIA will identify the impact of the Act and RMP based on data available both pre-Act and post-Act and presumably into the future. In consideration of the requirements of the Act and RMP the Council released an RFP to develop a Fiscal Impact Assessment (FIA) of the Highlands Water Protection and Planning and Act (Act) and Associated Regional Master Plan (RMP) for public bid on December 18th, 2013. After extending the response deadline by one week to February 7, 2014, due to adverse weather conditions, the Council received four proposals. Each of the proposals met the technical response requirements outlined in the RFP and was reviewed by a staff committee of seven. Each proposal was scored using a standard pre-determined set of criteria resulting in the top three teams selected to participate in an interview held on March 31st, April 1st, and April 3rd of this year. Ultimately, staff recommended PlaceWorks for an award of contract. Working with Council staff PlaceWorks will prepare the final FIA, an executive summary, and technical data with succinct explanations of any methodologies used in completing their work. Furthermore PlaceWorks will, over the course of the project, work with the chosen consultant for the Monitoring Program Recommendation Report in developing appropriate economic indicators and milestones so as to reduce or eliminate any duplicative efforts. Based on the proposed scope of work the project is anticipated to be completed within a 10-12 month timeframe from the approval of the contract within a budget of \$136,455. However, based on the extent of the scope of work we request that the Council allocate a 10% contingency to supplement the contract for additional services as/if needed to effectively complete the Fiscal Impact Assessment task as required by the Highlands Act and RMP for a total budget of \$150,100.

April 15, 2014

Page 3

Committee Chair Holtaway made a motion to approve the contract for Council's consideration at the April 17, 2014 meeting, Chairman Rilee seconded the motion and all approved.

Monitoring Program Recommendation Report in Support of the RMP Monitoring Program

Mr. Piasecki gave an overview of the Monitoring Program Recommendation Report process as outlined in his memorandum to the Committee on April 10, 2014.

The Monitoring Program Recommendation Report will identify indicators and milestones based on public comment, State agency coordination, technical advisory committees and information developed in the FIA to generate the MPRR. Similar to the FIA the MPRR will identify key trends for the 2004-2014 time periods and anticipated conditions for the 2014-2024 periods. In consideration of the requirements of the Act and RMP the Council released an RFP to develop a Monitoring Program Recommendation Report of the Highlands Regional Master Plan for public bid in January 2014. After extending the response deadline by one week to March 7, 2014, due to adverse weather conditions, the Council received two proposals. Each of the proposals met the technical response requirements outlined in the RFP and was reviewed by a staff committee of eight. Each proposal was scored using a standard pre-determined set of criteria. Interviews were held each of the respondents on March 31st and April 4th of this year. Ultimately, staff recommended Regional Plan Association (RPA) for an award of contract.

Working with Council staff Regional Plan Association will prepare the final MPRR, an executive summary, and summaries of public comment as well as stakeholder and technical advisory committee input. Furthermore RPA will, over the course of the project, work with the chosen consultant for the Fiscal Impact Assessment in developing appropriate indicators and milestones so as to reduce or eliminate any duplicative efforts. Based on the proposed scope of work the project is anticipated to be completed within a 10-12 month timeframe from the approval of the contract within a budget of \$150,000. However, based on the extent of the scope of work we request that the Council allocate a 10% contingency to supplement the contract for additional services as/if needed to effectively complete the Monitoring Program Recommendation Report task as required by the Highlands Act and RMP for a total budget of \$165,000.

Committee Chair Holtaway made a motion to approve the contract for Council's consideration at the April 17, 2014 meeting, Chairman Rilee seconded the motion and all approved.

Chief Council Davis added that the RMP Update Committee met on April 9, 2014, and the committee members were in concurrence with the two recommended contract awards just discussed for Council's consideration at the April 17, 2014.

The Budget and Finance Committee adjourned at 2:23pm.

RESOLUTION 2014-17
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF CONTRACT MODIFICATION FOR WATER USE AND
CONSERVATION MANAGEMENT PLANNING

WHEREAS, pursuant to Resolution 2009-26, that the Highlands Council established a Grant Program in connection with the preparation of Water Use and Conservation Management Plans (WUCMPs); and

WHEREAS, pursuant to Resolution 2009-26, the Highlands Council authorized a contract to be entered into with Camp Dresser & McKee, Inc. (CDM Smith) in furtherance of the WUCMP program; and

WHEREAS, Resolution 2009-26 allocated \$1,000,000 in furtherance of the WUCMP program, authorizing \$500,000 towards the retention of CDM Smith in connection with the preparation of certain WUCMP pilot projects, and further providing the Executive Director with authority to authorize additional amounts under this contract pursuant to the Executive Director's authority under the Highlands Council Bylaws; and

WHEREAS, Resolution 2009-26, allocated \$500,000 in furtherance of the development and implementation of a process for the solicitation and distribution of grants or other support to Highlands municipalities and counties that require assistance in developing their WUCMPs in areas not included within the ten pilot projects contemplated in the CDM Smith contract; and

WHEREAS, remaining work is anticipated for both the pilot towns and non-pilot subwatersheds in the Highlands Region that is beyond the scope of the existing CDM Smith contract, and therefore, a contract modification is recommended to assist staff and municipalities with this ongoing technical work;

WHEREAS, for the reasons stated in the Memorandum to Margaret Nordstrom, Acting Executive Director, from Christine Danis, Director of Planning and Science, and Jim Hutzleemann, Water Resource Engineer, dated May 5, 2014, the Budget and Finance Committee of the Council has considered and recommended that the full Council approve of an extension of CDM Smith's contract in an amount up to \$150,000, to be allocated out of the existing \$500,000 portion of the grant program set up by the Council pursuant to Resolution 2009-26, and as more particularly set forth in the May 5, 2014 memorandum and revised scope of services attached to that memorandum;

NOW, THEREFORE, BE IT RESOLVED the Highlands Council that:

1. The Executive Director is hereby authorized to enter into a contract modification with CDM Smith consistent with the approach and scope set forth in the May 5, 2014 memorandum referred to hereinabove; and
2. The Executive Director, or his or her designee, shall continue to report to the Highlands Council all approved grants and the status of the WUCMP Grant Program at regular meetings of the Highlands Council.

RESOLUTION 2014-17
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF CONTRACT MODIFICATION FOR WATER USE AND
CONSERVATION MANAGEMENT PLANNING

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 15th day of May, 2014.



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



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Governor

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JIM RILEE
Chairman

MEMORANDUM

To: Council Members

From: Margaret Nordstrom, Acting Executive Director

Subject: Resolution – Authorizing Contract Modification for Water Use and Conservation Management Planning

Date: 5/6/2014

In 2009, pursuant to Resolution 2009-26, the Council established a grant program to help Highlands municipalities and counties develop Water Use and Conservation Management Plans (WUCMPs). At that time, the Council established a funding level of \$1,000,000. That figure was broken down as follows: \$500,000 was authorized for a contract to retain the consulting firm of CDM Smith to assist the staff in the preparation of WUCMPs in ten pilot project areas; and the remaining \$500,000 was authorized to permit the Executive Director to establish and implement a process for the solicitation and distribution of grants or other support to Highlands municipalities and counties regarding areas not in the initial pilot areas.

Since that time, CDM Smith has been very helpful to the staff, and has developed considerable expertise in this area. There are additional subwatershed areas that are appropriate for further study, and we are in need of assistance to move this program forward.

For the reasons more fully set forth in the May 5, 2014 memo from staff (attached), we are recommending that the Council adopt the attached resolution which would allow for the retention of CDM Smith for an additional \$150,000 to help support efforts to complete remaining work needed in connection with the WUCMP program.



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JIM RILEE
Chairman

MEMORANDUM

To: Budget & Finance Committee

From: Margaret Nordstrom, Acting Executive Director

Subject: Committee Meeting Minutes – May 8, 2014

Date: May 8, 2014

A Budget and Finance (B&F) Committee was held on Thursday, May 8, 2014 at 3:06pm at the Highlands office in Chester. Committee Members present: Committee Chair Holtaway, Council Chairman Rilee (via phone) and Member James (via phone).

Staff Members present: Margaret Nordstrom (via phone), Andy Davis, Chris Danis, Jim Hutzelmann, and Annette Tagliareni.

Also present: Peter Simon, Assistant Counsel, Governor's Authorities Unit (via phone).

Committee Chair Holtaway opened the meeting for discussion on the following item on the agenda:

Approval of Contract Modification for Water Use and Conservation Management Planning – CDM Smith

Chairman Holtaway presented the memo from the staff that recommends the modification of the existing contract with CDM Smith to provide technical assist the Council in the preparation of Water Use and Conservation Management Plans (WUCMPs).

Chris Danis and Jim Hutzleman provided a detailed explanation of the WUCMP process, and described the detailed nature of the data gathering and analyses necessary to prepare workable WUCMPs. They further discussed the benefits to the Council of retaining the existing firm (CDM Smith) due to their expertise and knowledge in this area.

Committee Member James requested legal advice with respect to the validity of the 2009 resolution that initially established the WUCMP program, and provided for the award of the original contract.

May 8, 2014
Page 2

Chief Counsel Davis indicated that the 2009 resolution was still in effect, and that it was within the Council's prerogative to modify it for the purposes as recommended by staff.

Council Chair Rilee asked about the assumptions that would be used in the analyses going forward, and staff responded that by extending this contract to provide technical assistance to the Highlands staff, this will enable better, more robust gathering of data, and in turn, allow for more precise and custom tailored WUCMPs to be developed.

There was further discussion regarding the original award of the contract to CDM Smith, and staff indicated that this was as a result of an RFP issued several years ago, and that there were approximately five (5) responding entities. Committee Chair Holtaway commented that he was comfortable that this firm was vetted several years ago, and he and the other Committee Members agreed that it made fiscal sense to go forward with this contract modification.

Committee Chair Holtaway made a motion to approve a contract modification for water use and conservation management planning for Council's consideration at the May 15, 2014 meeting, Member James seconded the motion and all approved.

The Budget and Finance Committee adjourned at 3:27pm.



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JIM RILEE
Chairman

MEMORANDUM

To: Margaret Nordstrom, Acting Executive Director

From: Christine Danis, Director of Planning and Science
Jim Hutzelmann, Water Resource Engineer

Subject: CDM Smith - Water Use and Conservation Management Plan Program
Contract Modification
Grant Number 10-032-012-0000
Contract No. 2009-002

Date: May 5, 2014

CDM Smith is a nationally recognized consulting and engineering firm that provides integrated solutions in water resources and the environment, with an in-depth knowledge of the watersheds and water availability in northern New Jersey and the Highlands Region. The Highlands Council has an existing contract with CDM Smith to aid the Highlands Council with technical assistance in the development of guidance, methodologies, and model documents regarding Water Use and Conservation Management Plans (WUCMPs) for several municipalities in the Region, which address the requirement of the *Highlands Restoration: Water Deficits* program in Chapter 5 of the Regional Master Plan (RMP). WUCMPs are a critical planning tool specified in the goals, policies and objectives of the RMP as well. The Highlands Council has the need for CDM Smith's specialized professional and technical expertise in order to implement the RMP requirement for implementing the WUCMP program. As a result of CDM Smith's exceptional knowledge of the Highlands WUCMP Program and unique program methodologies, staff would like to modify the existing contract to allow for additional technical assistance to the Highlands Council staff and for municipalities implementing Water Use and Conservation Management Plans beyond the realm of the several pilot subwatersheds. It is the logical next step in the WUCMP grant program and critical to municipalities in implementation of resource plans beyond Plan Conformance. Both the existing scope of work and 2009 contract hourly bill rates remain unchanged and the contract modification details are attached.

May 5, 2014

Page 2

The current program with CDM Smith was authorized by Resolution 2009-26 for an amount not to exceed \$1,000,000, with no more than \$500,000 to be used to develop a WUCMP Pilot program for ten project areas affecting up to twenty HUC 14 watersheds. Initially, there were 9 pilot project study areas involving 17 municipalities, who were granted \$5,000 each to participate. The contract completion date was extended with no-cost time extensions and the scope modified once to address a tenth study area in the pilot program, bringing the not-to-exceed contract amount to \$508,300¹.

To date, the entire amount of the existing contract has been encumbered and the firm is producing deliverables on behalf of Highlands municipalities. The contract has been in place since 2009, and to date, the firm has been compensated \$431,697.84.. However, remaining work is anticipated for both the pilot towns and non-pilot subwatersheds in the Highlands Region that is beyond the existing contract. Therefore, a contract modification is recommended to assist staff and municipalities with this ongoing technical work.

With reference to the remaining \$500,000 available to advise and assist the Highlands Council, \$85,000 has been allocated to the 17 municipalities in the pilot project program for technical reviews by municipal consultants (\$5,000 to each municipality). We propose to use \$150,000 for direct technical assistance and guidance to Highlands staff, and \$265,000 to remain for non-pilot municipalities for technical assistance in developing WUCMPs not envisioned during their Plan Conformance petition approvals. Currently 30 municipalities have a task included in their Plan Conformance Grant to develop and implement WUCMPs. CDM will provide technical assistance to these municipalities from the approved Plan Conformance Grant Program funds for the development of a WUCMP as part of the approved Highlands Council Technical Assistance Scope of Work (attached). CDM Smith has already provided technical assistance to one of these municipalities under the existing contract.

In the case at hand, the complexity of developing WUCMPs by CDM Smith and the Highlands Council was unexpected and the need to complete the tasks based on the existing scope of work as outlined in the contract are necessary for municipal compliance with the RMP.

For the reasons stated above, we recommend that the Council authorize the modification of the current contract with the funding allocations as presented in this memorandum to allow for the completion of the attached scope of work..

¹ Resolution 2009-26 also provides that “the Executive Director may authorize additional amounts under this contract pursuant to [his] authority under the Highlands Council Bylaws.” The Bylaws, at Section 5(g), grant the Executive Director the authority to approve payments for goods and services up to \$25,000. Accordingly, the Executive Director exercised his authority, as provided for in Resolution #2009-26 and the Highlands Council Bylaws, to increase the grant contract to include the additional funds and set the contract to a not-to-exceed amount of \$508,300

Highlands Council Water Use and Conservation Management Plan (WUCMP)

Scope of Work

Overview

The Highlands Regional Master Plan (RMP) requires that conforming municipalities develop a Water Use and Conservation Management Plan (WUCMP) that reflects the policies and objectives of the RMP. Specifically, conforming municipalities are required to develop Water Use and Conservation Management Plans "that will set priorities for the use of available water (where net water availability is positive) and will establish methods to reduce and, where feasible, eliminate deficits where they exist".

One of the highest priority objectives described in the RMP is to restore and protect water resources within the Highlands Region. The development of WUCMPs specific to HUC14 subwatersheds is intended to address the requirements of this objective in a practical way that is applicable to each subwatershed.

The RMP provides a method for determining how much water is routinely available for human use, as differentiated from water available for maintenance of ecosystem integrity and for maintenance of minimum levels in reservoirs and other surface water. The method determines Net Water Availability for each HUC14 subwatershed. Where Net Water Availability is positive, future human use of water supply is supported. Where Net Water Availability is negative, action is needed to address the deficit.

Net Water Availability varies greatly from one area within the Highlands Region to another. Some areas have a water surplus. Other areas are in significant deficit. To reduce or eliminate the water deficits within the Region, Water Use and Conservation Management Plans are required under RMP Objective 2B8c:

Water Use and Conservation Management Plans shall be required through municipal Plan Conformance for all subwatersheds to meet the policies and objectives of Goal 2B, to ensure efficient use of water through water conservation and Low Impact Development Best Management Practices, and to avoid the creation of new deficits in Net Water Availability. Where developed for Current Deficit Areas, the plans shall include provisions to reduce or manage consumptive and depletive uses of ground and surface waters as necessary to reduce or eliminate deficits in Net Water Availability, or to ensure continued stream flows to downstream Current Deficit Areas from Existing Constrained Areas, to the maximum extent practicable within each HUC14 subwatershed. Water Use and Conservation Management Plans shall demonstrate through a detailed implementation plan and schedule how and when the current deficit will be resolved in a subwatershed prior to approval for new water uses in the subwatersheds with the most severe deficits (e.g., in excess of 0.25 million gallons per day or mgd), and the plan shall be implemented prior to initiation of new water uses.

Technical Assistance

Under the existing contract, CDM Smith currently provides technical assistance to both Council staff and municipalities in the preparation of WUCMPs. Work to be performed for either Council staff or with municipalities is authorized and coordinated solely by Council staff under defined work orders.

Major Task 1 –Direct Technical Assistance

CDM Smith provides technical assistance to Highlands Council staff on an as-needed basis. At the direction of Council staff, a work order is prepared by CDM Smith for the requested work. The work order includes the specified scope of services, schedule, and not-to-exceed fee. All work under is performed in accordance with terms, conditions and fee schedule approved in 2009 via Highlands Resolution 2009-26. The hourly bill rates for CDM-Smith remain as was approved in the contract approved via Resolution 2009-26.

Potential Services under this contract may include but are not limited to, the following:

- General hydrologic and hydrogeologic consulting.
- Update wastewater discharge and water usage data, data from existing NJDEP and USGS databases.
- Compile existing location data for public supply wells, NJPDES discharges, and their updated usage data.
- Perform a revised Net water availability analyses for Highlands subwatersheds (see below for details of Tasks 1-3 in the WUCMP Work Plan), according to the latest Highlands Council methodology.
- Prepare figures in GIS showing Highlands Existing Areas served for water and wastewater, sources of water diversions, and location of wastewater dischargers.
- Preparation of the WUCMP section entitled “Analysis of Net Water Availability,” according to the latest Highlands Council draft WUCMP document (see below for details of Tasks 1-5a in the WUCMP Work Plan)
- Preparation of a full WUCMP, (see below for details of Tasks 1-4, and 5b in the WUCMP Work Plan), according to the latest Highlands Council draft WUCMP document.
- Attendance at meetings between Highlands council staff and municipal professional staff.

The contract modification allows for continued funding to be allocated to CDM Smith and authorized for direct Technical Assistance to the Highlands Council staff; this amount shall not exceed \$150,000.

Major Task 2 – Municipal WUCMP Technical Assistance

CDM Smith is currently providing technical assistance to several pilot subwatershed municipalities on behalf of the Highlands Council, which is anticipated to assist towns with the preparation of WUCMPs. At this time municipalities and subwatershed areas beyond the identified pilot areas are in need of and approved for the development of WUCMP. The WUCMP task is included in a municipality’s Plan Conformance grant with the Highlands Council acting as lead agent. At the direction of Council staff, a work order is prepared by the consultant for the municipal WUCMP. The work order includes the specified scope of services, schedule, and not-to-exceed fee. In summary, the proposed contract modification provides the following:

1. Allows for \$150,000 direct technical assistance to Highlands staff; and
2. Allows for CDM Smith to provide technical support to municipal WUCMP as part of PC Grant funds with Highlands Council staff oversight based on the following
 - Preparation of the WUCMP section entitled “Analysis of Net Water Availability,” according to the latest Highlands Council draft WUCMP document (see below for details of Tasks 1-5a in the WUCMP Work Plan)
Estimated Cost Range - \$12,000 - \$25,000 per WUCMP *Analysis of Net Water Availability* section.
 - Preparation of a full WUCMP, (see below for details of Tasks 1-4, and 5b in the WUCMP Work Plan), according to the latest Highlands Council draft WUCMP document.
Estimated Cost Range - \$35,000 - \$75,000 per full WUCMP

Highlands Council
Water Use and Conservation Management Plan (WUCMP)
Work Plan

Task 1 – Identify Data Gaps

- Meet with the Highlands Council staff initially to review the available data for the WUCMP area and receive any additional applicable data.
- Review all data provided by the Highlands Council for the subject area. This will include water and Wastewater System Facilities and their respective Existing Areas Served.
- Review and obtain Allocation and Firm Capacity associated with potable water sources.

Task 2 – Compile Data

CDM Smith will compile data for water usage and develop the data tables for each subwatershed (HUC 14) included in the WUCMP. This will include:

- Compilation of existing NJDEP and USGS water usage data from all water supply sources within the HUC14
- Compile existing NJDEP and USGS wastewater discharge data from all permitted wastewater facilities in the HUC14
- Look up capacity information in NJDEP Water Allocation databases
- Develop tables compiling existing data for public supply wells, firm capacity, and summary of raw pumpage
- Compile wastewater discharge totals from Highlands Council database, and cross-check with NJDEP online databases if data is missing.
- Calculate Septic Returns from areas outside public wastewater service per the Highlands Council methodology, but adjusted for those areas served by septic that also are served by public supply. This adjustment reflects “imported septic return” where potable water is conveyed through a public supply service network into an HUC with no associated withdrawals.

Task 3 – GIS Analysis

CDM Smith will perform various GIS analyses to obtain necessary information in preparing the WUCMPs. This will include analysis to derive estimates of the following

- Total area of existing areas served (public supply) served
- Confirm location of water sources by HUC14 and affiliated service areas
- Confirm location of wastewater discharges and affiliated service areas

Task 4 - Complete and Format HUC Tables

The compiled data will be formatted into tables that summarize data by HUC. This data includes:

- Wastewater returns (both to groundwater and surface water)
- Month of maximum pumping
- Application of consumptive/depletive use coefficients to domestic supply and public supply

The above data is used to calculate consumptive uses associated with the following:

The above information is used to then calculate revised net water availability (and surplus for potential use downstream if applicable).

Task 5a –Prepare WUCMP “Analysis of Net Water Availability” Section

Following the completion of Tasks 1 through 4, CDM Smith will prepare the narrative for the section entitled “Analysis of Net Water Availability” in the draft WUCMP prepared by the municipality. The consultant will also prepare all figures and tables (as developed for pilot draft WUCMPs).

-OR-

Task 5b – Full WUCMP Development

Following the completion of Tasks 1 through 4, CDM Smith will prepare an entire Draft WUCMP along with the associated figures and tables (as developed for pilot draft WUCMPs).

Preparation of the full WUCMP consisting of the following information:

- 1. Introduction** – Purpose and Scope, WUCMP Goals and Policy Overview, and Implementation Strategy
- 2. WUCMP Area Characteristics** – Identification of the Plan Study Area, including Subwatersheds, Land Use Capability and Land Cover, Land Use & Zoning, Major Hydrologic Features and Geology and Soil Properties
- 3. Identification of Water Sources and Uses** – Profile of the Sparta Twp. Water System, including Sources, Service Areas, Allocation, Firm Capacity and Remaining Firm Capacity
- 4. Identification of Stakeholders in the Project Study Area** – Appropriate stakeholders within the study area will be identified
- 5. Analysis of Net Water Availability** – Based on recent data, a calculation of net water availability and the current deficit will be performed. This will include a recalculation of the target reduction to be achieved by the implementation of water conservation and mitigation strategies developed in the WUCMP.
- 6. Summary and Ranking of Water Conservation and Deficit Mitigation Strategies** – Identification and Evaluation of Strategies based on their feasibility, effectiveness, resilience and reliability, reduction potential and market penetration, administrative complexity and availability of implementing entities, cost and cost effectiveness and schedule.
- 7. Selected Strategies** – Based on the above analyses, a list of the selected strategies and a discussion of the expected deficit reduction of each.

8. Monitoring and Implementation Plan – A summary of the overall Deficit Reduction Implementation Plan, including schedule, as well as the monitoring system established to measure progress towards the overall deficit reduction goal.

The following is an excerpt from the 2009 CDM Smith contract hourly bill rates which shall remain in effect as part of the contract modification agreement.

SCHEDULE OF HOURLY BILLING RATES

CATEGORIES	2009 HOURLY RATES
PROFESSIONAL SERVICES:	
OFFICER	\$ 197.00
PRINCIPAL/ASSOCIATE	\$ 171.00
SENIOR PROFESSIONAL	\$ 145.00
PROFESSIONAL II	\$ 125.00
PROFESSIONAL I	\$ 104.00
PROFESSIONAL SUPPORT SERVICES	
SENIOR SUPPORT SERVICES	\$ 115.00
STAFF SUPPORT SERVICES	\$ 83.00
FIELD SERVICES	
SENIOR PROFESSIONAL	\$ 109.00
PROFESSIONAL	\$ 78.00
PROJECT SUPPORT SERVICES	
PROJECT ADMINISTRATION	\$ 78.00

These rates will be in effect through 12-31-09

RESOLUTION 2009-26

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF GRANT PROGRAM AND CONTRACT FOR WATER USE AND CONSERVATION MANAGEMENT PLANNING

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 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, the Highlands Council staff recommends that the Highlands Council create a Water Use and Conservation Management Plan Grants Program in which the Executive Director is authorized to provide technical assistance and to enter into a Grant Agreement with any municipality or county and that the Executive Director be required to report at regular meetings of the Highlands Council all grants approved and the status of this grants program;

WHEREAS, to support the Highlands Council in the development of guidance and pilot projects regarding Water Use and Conservation Management Plans, on October 26, 2008 the Highlands Council prepared a Request for Proposal (RFP) seeking a firm to advise and assist the Highlands Council; and

WHEREAS, several firms submitted responses and qualifications submittals prior to the deadline of December 5, 2008; and

WHEREAS, the Highlands Council staff evaluated the proposals and qualifications of the applicants and recommends that Camp Dresser & McKee, Inc. is best suited to meet the needs articulated by the Highlands Council's RFP and further recommends that the Highlands Council authorize the Executive

RESOLUTION 2009-26
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF GRANT PROGRAM AND CONTRACT FOR WATER USE AND
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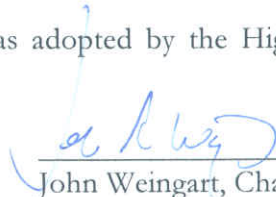
Director to enter a contract with Camp Dresser & McKee, Inc. for the development of Water Use and Conservation Management Plan consulting services;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that:

1. The Executive Director, or her designee, is hereby authorized to develop and implement a Water Use and Conservation Management Plan Grants Program in an amount not to exceed \$1 million;
2. The Executive Director, or her designee, is hereby authorized to enter a grant agreement under the Water Use and Conservation Management Plan Grants Program with any Highlands municipality or county;
3. The Executive Director, or her designee, is hereby authorized to enter into a contract with Camp Dresser & McKee, Inc. to develop a Water Use and Conservation Management Plan Pilot Project for ten pilot project areas affecting up to twenty HUC14 subwatersheds in Highlands municipalities or counties for an amount not to exceed \$500,000 of the total amount in the Grants Program, provided that the Executive Director may authorize additional amounts under this contract pursuant to her authority under the Highlands Council Bylaws;
4. The Executive Director, or her designee, is hereby authorized to develop and implement a process for the solicitation and distribution of grants or other support to Highlands municipalities and counties that require assistance in developing their Water Use and Conservation Management Plans regarding areas not included within the ten pilots of the Water Use and Conservation Management Plan Pilot Project, for the remaining amount in the Grants Program, provided that the Executive Director may authorize additional amounts under this agreement pursuant to her authority under the Highlands Council Bylaws; and
5. The Executive Director, or her designee, shall report to the Highlands Council all approved grants and the status of the Water Use and Conservation Management Plan Grants Program at regular meetings of the Highlands Council.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 26th day of February, 2009.



John Weingart, Chairman

RESOLUTION 2009-26

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF GRANT PROGRAM AND CONTRACT FOR WATER USE AND CONSERVATION MANAGEMENT PLANNING

**Vote on the Approval of this
Resolution**

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede						✓
Councilmember Calabrese		✓	✓			
Councilmember Carluccio			✓			
Councilmember Cogger			✓			
Councilmember Kovach			✓			
Councilmember Letts			✓			
Councilmember Pasquarelli				✓		
Councilmember Peterson					✓	
Councilmember Schrier	✓		✓			
Councilmember Vetrano						✓
Councilmember Way			✓			
Councilmember Whitenack						✓
Councilmember Weingart			✓			