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Governor

KIM GUADAGNO
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JIM RILEE
Chairman

GENE F. FEYL
Executive Director

MEETING AGENDA
Thursday, February 20, 2014 at 4pm

- CALL TO ORDER
- ROLL CALL
- OPEN PUBLIC MEETINGS ACT STATEMENT
- PLEDGE OF ALLEGIANCE
- APPROVAL OF MINUTES and EXECUTIVE SESSION MINUTES – January 16, 2014
- CHAIRMAN'S REPORT (and Council Member Reports)
- COMMITTEE REPORTS

BUDGET AND FINANCE:

- CONSIDERATION OF RESOLUTION – Approval Of A Transfer Of Development Rights Receiving Zone Feasibility Grant, City of Paterson (*voting matter with public comment*)
- EXECUTIVE DIRECTOR'S REPORT
- 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.*)
- EXECUTIVE SESSION (*deemed if necessary*)
- ADJOURN

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MEETING MINUTES OF FEBRUARY 20, 2014

PRESENT

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

VIA TELECONFERENCE

ROBERT HOLTAWAY)
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ABSENT

KURT ALSTEDE)
MICHAEL R. DRESSLER)

CALL TO ORDER 128TH meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:07pm.

ROLL CALL

Roll call was taken. Council Member Alstede, Dougherty, and Dressler were absent. Member Holtaway was present via teleconference. All other members were present. *The following staff members were present: Gene Feyl, Margaret Nordstrom, Andrew Davis, Kim Ball Kaiser, Chris Danis, James Humphries, Carole Dicton, and Tom Tagliareni. Also present were Peter Simon, Assistant Counsel of the Governor's Authorities Unit, and Matt Kelly, DAG.*

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 AND EXECUTIVE SESSIONS MINUTES OF JANUARY 16, 2013

Mr. Walton introduced a motion to approve the minutes and Executive Sessions minutes. Mr. Francis seconded it.

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All members present voted to approve the Minutes of January 16, 2014. The minutes were APPROVED 11-0.

CHAIRMAN'S REPORT

Chairman Rilee announced the appointment of an RMP Update Committee and named Council Members Alstede, Sebetich, Vohden, and himself as committee members.

Member Richko commented that at the last meeting there was discussion about opening committee meetings to the public, with the exception of the Personnel Committee, and indicated he would like meetings of this committee to be open. Chairman Rilee responded that committee meetings do not need to be open to the public. Chairman Rilee added that and the Committees involve discussion but are not where policy is set.

Member Carluccio commented that during drafting of the RMP, the public was able to attend committee meetings and not comment. Member Carluccio supports Member Richko's comment for the RMP Update Committee including the Checklist Committee.

Member James asked if there is any legal requirement that the committee meetings have to be open to the public. Chief Counsel Davis responded that the Open Public Meeting Act requires that any gathering of less than a quorum does not need to be open to the public. In reply to the Chairman's question regarding his authority to establish the committees and their process, Chief Counsel Davis indicated that it is the Chairman's prerogative as to how the committees are structured and function.

Chairman Rilee commented, in his opinion, that opening committee meetings to the public takes away from the deliberative process amongst Council members and Council staff. Chairman Rilee added that everything comes back to the Council and any actions requiring a vote of the council will be open to public comment at that time.

COUNCIL MEMBER REPORTS

Member Carluccio requested to be on the RMP Update Committee. Members Sebetich and Richko supported Member Carluccio's addition to the RMP Update Committee. Chairman Rilee noted the members' requests.

Member Vohden corrected a comment he made at the last meeting regarding land values. Mr. Vohden also commented on the importance of extending the dual appraisal method to preserve properties.

Members Visioli and Francis supported the current committee process.

COMMITTEE REPORTS

Budget & Finance Committee

Chairman Rilee announced the Resolution.

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**Resolution – Approval Of A Transfer Development Rights Receiving Zone Feasibility Grant
City of Paterson, Passaic County**

Committee Chair Holtaway reported that the Budget and Finance Committee discussed this resolution at their meeting on February 13, 2014. Mr. Holtaway added that the City of Paterson is outside the Highlands but depends on Highlands resources. Mr. Holtaway noted that the grant for Paterson is in the amount of \$50,000, an additional \$10,000 than previous TDR grants due to the complexity of Paterson's redevelopment and infrastructure needs. He represented that the Budget and Finance Committee recommends that Council approve this resolution.

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

Public Comment

Hank Klumpp, owns property in the Highlands Preservation Area – Mr. Klumpp does not support this resolution.

David Peifer, Association of New Jersey Environmental Commissions – Mr. Peifer strongly supports the resolution.

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

George Stafford, New Jersey Highlands Coalition - Mr. Stafford spoke in support of the resolution.

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

Council Comment

Member James asked what the payment schedule is for Paterson. Ms. Nordstrom responded that the at-risk money equals \$7,500 for Phase 1 and it is at this point that it is decided if we move forward.

Chairman Rilee commented that this is one of the few ways Council has at its disposal to compensate landowners.

Member Francis commented on the importance of getting the TDR program to work.

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

EXECUTIVE DIRECTOR'S REPORT

Mr. Feyl gave his Executive Director's report to update the Council on staff activities. Under Mr. Feyl's delegated authority (Resolution 2013-25), there were 6 action items under Plan

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Conformance/Implementation: Allamuchy Township, adopted Checklist Ordinance; Chester Township adopted Checklist Ordinance and Exemption Determination Ordinance; Montville Township adopted Highlands Land Use Ordinance and Exemption Determination Ordinance; and Phillipsburg adopted Master Plan Reexamination Report and Resolution. Under the TDR Program – Highlands Development Credit Allocation, there were five allocation approvals, all in Lebanon Township.

Also, Mr. Feyl announced that staff recently finalized implementation guidance materials for municipalities, related to lake and stream management. The documents are intended to be used by planning and science professionals within a municipality to aid in the development of effective lake and stream management strategies and practices. The documents were posted to the Highlands Council website (see Plan Conformance > 13. Plan Conformance Implementation > Technical Guidance)

- Lake Management Guidance
- Stream Corridor Guidance Part 1: Functional Value Assessment Methodology
- Stream Corridor Guidance Part 2: Protection and Restoration Planning

Highlands Council staff continues to reach out to counties, municipalities and government entities to encourage regional planning and the establishment of Transfer of Development Rights Receiving Zones. Since last month's meeting, staff attended 23 meetings, and received 24 constituent calls in January.

Chairman Rilee opened the meeting for public comments.

Public Comment

Hank Klumpp, owns property in the Highlands Preservation Area – Mr. Klumpp commented on property value issues and boundary lines established in the Highlands Act. Mr. Klumpp submitted his handwritten comments for the record. Mr. Klumpp also asked Chairman Rilee to extend public comments from 3 to 4 minutes.

Member Dougherty was in attendance at 4:50pm.

Patrick Moffitt, Peapack, New Jersey – Mr. Moffitt commented on various aspects of the Highlands Act, regional master plan and legislation. Mr. Moffitt submitted his comments for the record.

David Shope, owns property in Lebanon Township, NJ - Mr. Shope commented on issues related to TDRs.

Chief Counsel Davis commented on certain representations made by some members of the public.

Member Walton also commented on certain representations made by some members of the public.

Member Carluccio commented on the RMP update process.

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Julie Somers, New Jersey Highlands Coalition – Ms. Somers commented on the issue of the scientific research to support the Highlands Act.

Member Holtaway left the meeting via teleconference at 5:02pm.

Jerry Kern, property owner in Pohatcong Township – Mr. Kern commented in support of the dual appraisal and urged the Council to pass a resolution to support Senator Oroho's bill to make landowners whole.

Member James left the meeting temporarily at 5:08pm.

David Peifer, Association of New Jersey Environmental Commissions – Mr. Peifer commented on the boundary line issue that had been raised earlier in the meeting by Mr. Klumpp and noted that that question was resolved in two court cases.

Member James returned to meeting 5:09pm.

David Shope, owns property in Lebanon Township, NJ – Mr. Shope commented on legal doctrines generally.

George Stafford, New Jersey Highlands Coalition - Mr. Stafford suggested that the Council may want to reconsider including the public in the committee meetings regarding the RMP update.

Julie Somers, New Jersey Highlands Coalition – Ms. Somers commented on the dual appraisal suggesting that if Council passes a resolution to continue the dual appraisal, Council should add to that resolution continuing funding for the Green Acres program.

Hank Klumpp, owns property in the Highlands Preservation Area – Mr. Klumpp suggested that Council include a request for a dedicated funding source for the Highlands in any resolution supporting the dual appraisal.

Patrick Moffitt, Peapack, New Jersey – Mr. Moffitt commented on the nitrate dilution model and Council's response.

Council Comment

Member Carluccio requested that the public comment timeframe be formally changed from 3 to 4 minutes.

Mr. Walton made a motion to adjourn the meeting. Mr. James seconded it. The meeting was adjourned at 5:16pm.

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CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Water Protection and Planning Council.

Date: 4/21/14

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

RESOLUTION 2014-6
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF A TRANSFER OF DEVELOPMENT RIGHTS RECEIVING ZONE
FEASIBILITY GRANT CITY OF PATERSON, PASSAIC COUNTY

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

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

WHEREAS, Section 18 of the Highlands Act authorizes the Highlands Council to make available grants and other financial and technical assistance to municipalities and counties for implementation of a transfer of development rights (TDR) program; and

WHEREAS, on March 22, 2007, the Highlands Council by Resolution 2007-9 authorized the TDR Committee to develop and implement a process for the solicitation and distribution of grants and other support to municipalities within the seven Highlands counties in furtherance of the development of the Highlands TDR Program, in an annual amount not to exceed \$1,000,000; and

WHEREAS, the Budget and Finance Committee reviewed the grant application submitted by the City of Paterson, County of Passaic, and recommends approval by the Highlands Council.

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or his designee, is hereby authorized to enter into a grant agreement with the City of Paterson for a TDR Receiving Zone Feasibility Grant in the amount of \$50,000, provided that the Executive Director may authorize additional amounts under this contract pursuant to his authority under the Highlands Council Bylaws.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 20th day of February 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			✓			