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until the completion of the Governor's review of the Highlands Council minutes

HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF JUNE 28, 2019

PRESENT

ROBERT G. WALTON	)	CHAIRMAN
DALE DAVIS III	)	DIRECTOR
HEBERTON "RUSTY" FRICKE	)	DIRECTOR
SUSAN E. PAYNE	)	DIRECTOR
DIRECTOR RICHKO	)	DIRECTOR

VIA TELE-CONFERENCE:

ROBERT HOLTAWAY	)	DIRECTOR
ANDREW R. MCELROY	)	DIRECTOR
GREG ROMANO	)	DIRECTOR

ABSENT:

RICH NIEUWENHUIS	)	DIRECTOR

CALL TO ORDER

Chairman Robert G. Walton, called the 24TH meeting of the Highlands Development Credit Bank Board of Directors to order at 10:00am.

ROLL CALL

Roll call was taken. Director Nieuwenhuis was absent. Directors Holtaway, McElroy, and Romano were present via tele-conference. All other directors were present. *The following Council staff members were present: Lisa J. Plevin, John Maher, Christine LaRocca, James Humphries, Drew Siglin, Tom Tagliareni, Carole Dicton, Alex Hascha, and Annette Tagliareni. Also present via tele-conference was Jennifer Moriarty, DAG.*

OPEN PUBLIC MEETINGS ACT

Chairman Walton announced that the meeting was held in accordance with the Open Public Meetings Act at N.J.S.A. 10:4-6. The Highlands Development Credit (HDC) Bank had sent written notice of the time, date, and location of this meeting to pertinent newspapers of circulation throughout the State and posted the same on the Bank's website.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF MEETING MINUTES FOR NOVEMBER 1, 2018

Director Davis made a motion to approve the minutes and Director Richko seconded it.

A roll-call vote was taken and the Minutes were APPROVED 7-0, with one abstention by Director Payne.

CHAIRMAN'S REPORT

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Chair Walton reported that the Bank Board members will have a discussion regarding the municipal average methodology for assessing the value of property purchased through open space programs. This was brought to the Highlands Council's attention by members of the public who requested the Council investigate this as a means of assessing land. There will be no votes today.

EXECUTIVE DIRECTOR REPORT

Ms. Plevin provided the following report:

Bank Director Training

On July 11, 2019 at 3:00pm, Highlands Council staff are hosting a training session for new Bank Directors. This will include a review of the materials provided in the 2018 Bank Board Director Manuals that were handed out at last November's meeting as well as some additional background information. All Bank Directors are welcome to attend. Ms. Plevin asked that Directors respond by July 3rd if they would like to attend.

New HDC Purchase Program Applications

Mr. Plevin reported that from May 16 through June 17, twenty-nine (29) new HDC Purchase Program applications were received. Highlands Council staff is now reviewing these applications for eligibility under the US Fish and Wildlife Highlands Conservation Act Grant Program. The US Fish and Wildlife Grant requires a 50% match, which presents a challenge in this round, since the HDC Bank has effectively spent out its state and mitigation dollars. In addition, pending changes to Federal appraisal standards may impact the ability to apply for this funding.

Highlands Development Credit Allocation Update

Highlands Development Credit Allocations are issued by the Executive Director under authority delegated by the Highlands Council.

Total Allocations Issued	Total HDCs Allocated	Total Acres Allocated	Total Credit Value
176	3,818.50	6,939.65	$61,096,000

Highlands Development Credit Purchase Program (2016) Update

Bank Board Approval	Offers Made	Offers Accepted	Offers Declined /Rescinded	Closings Completed	Closings Pending
11/3/16	28	25	3	21	4
4/5/17	18	18	2	11	5
11/2/17	16	10	6	8	2
Totals	62	53	11	40	11

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Highlands Development Credit Certificates Update

When HDCs are certified, properties are preserved under the HDC easement. These figures represent the total number of HDCs certified, the actual payout to landowners for the sale of those HDCs, and the total acres preserved under HDC easements to date.

Unique HDC Certificates	HDCs Certified	HDC Bank Purchases	Acres Preserved
60	1,454.0	$22,848,000.00	1,977.39

Highlands Council 2018 Annual Report

Lastly, Mrs. Plevin noted that in April the Highlands Council released its 2018 Annual Report. An HDC Bank Annual Report is included beginning on page 19. A hard copy of the report is provided in Director's packets.

Chair Walton added that he would be interested in hearing how much funding was put in the pockets of landowners for next time. Chair Walton noted that the Bank bought credits in the last round by using PSE&G mitigation and also some funding that was given to us through open space federal funds.

Municipal Average Discussion

Director of Planning and Science James Humphries began the discussion by giving an overview of Highlands staff's memorandum dated June 20, 2019 to the Bank Board. This memorandum was provided to the public and posted on the Council's website.

At this time there was a discussion regarding what a municipal average means, legal interpretation of statutes, the private market value, TDR market, and if the Bank should take the lead on researching this type of methodology.

Chief Counsel Maher's legal opinion is that the statutes are conflicting and there is no definitive definition of a municipal average. Mr. Maher has not sought the opinion of the NJ Division of Law.

Chair Walton asked if the Bank is obligated to change the methodology. Staff responded that the Bank is not obligated.

Director Payne noted that although the dual appraisal methodology has been extended for another five years, "hypothetical" comparable appraisals (appraisals using current market value but pre-Highlands Act regulations) are becoming increasingly difficult to obtain. Director Payne noted that the post-Act value is an accurate market value but there is no accurate pre-Act value. Municipal average could be an option, or seeking easement values via a completely different formula could be an option. Director Payne recognized that the existing statutory framework has competing and somewhat conflicting terms, so establishing municipal averages may not be an easy lift. Director Payne suggested that if this was pursued further, these issues might be reconciled by the State Legislature.

Chair Walton asked if this is something the Bank wants to pursue.

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Director Payne acknowledged that the statute states municipal average shall generally reflect the market value prior to the effective date of the development transfer ordinance. She commented that its intent was an equity protection mechanism. Director Payne noted that there is also 15 years of land conservation with Green Acres and Farmland Preservation data related to what has been paid for development potential value; and that there is also the $16,000 per credit value with the HDC Bank. Director Payne reiterated that while the methodology is not spelled out per the law, her belief is that if the Bank were to pursue this, then it could be figured out with some assistance.

Chairman Walton responded that he felt Director Payne is right, but the challenge will be that someone will come out behind and others ahead.

Director Davis noted as Chair of the Morris County Agricultural Development Board that the dual appraisal challenge is affecting the Board's ability to preserve farmland. Director Davis feels it is important that the Bank should take this on as the 15-year old data being used to develop pre-Act appraisals is not practical.

Council Chair Richko noted that all Bank Directors received written comments from Deborah Post.

Directors Holtaway, McElroy, and Romano felt the Bank should research another methodology besides dual appraisal to determine values.

Chairman Walton opened the floor for public comment on any other matters.

PUBLIC COMMENT

Monique Purcell, Department of Agriculture – Ms. Purcell applauded the Bank Board for scheduling this meeting earlier to discuss this subject. Ms. Purcell commented that it is important for the Bank to figure out a different valuation process.

Hank Klumpp, Tewksbury, NJ - Mr. Klumpp spoke on behalf of David Shope, Deborah Post and 80 proxies of Highlands landowners to advocate regarding municipal average. Mr. Klumpp encouraged the Bank Board to read Ms. Post's comments. Ms. Post's comments were submitted for the record.

Gordon Levey, Mount Freedom – Mr. Levey commented on the dual appraisal, 2004 appraisals, and property owners being able to contest their land assessments due to the Courts. Mr. Levey urged the Bank to look at the data available. Mr. Levey also asked for publicly available information used to establish HDC credits for a property.

Chair Walton commented that Highlands staff can assist with the HDC credit allocation methodology.

David Shope, Lebanon Township, NJ – Mr. Shope asked the Bank to excuse Ms. Post's typos in her written comments. Mr. Shope commented that the Pinelands have assessments of their lands and suggested that the Highlands do the same. Mr. Shope also suggested that the Bank Board look at Integra data.

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Hing Lum – Mr. Lum commented that he agreed to sell his HDCs in 2016 and he still hasn't closed due to funding that has disappeared.

Chair Walton responded that he will find out why Mr. Lum has not closed. Chair Walton's goal is to put money in the pockets of landowners.

Katherine Coyle, Morris County Agricultural Development Board – Ms. Coyle commented that she sent a letter to the Highlands Council asking for assistance with preserving farmlands in Morris County. Ms. Coyle encouraged the Bank to develop a municipal average to assist with the preservation of farmlands in the Preservation Area.

Ed Wengryn, New Jersey Farm Bureau – Mr. Wengryn suggested that the Bank should go back to the work that was originally done to establish a Highlands Development Credit formula. Mr. Wengryn added that there was a municipal average as part of that formula. The value is used as an equity protection tool and the Bank should look at this to give landowners options.

As a result of the Bank Board municipal average discussion, Bank Chair Walton requested that staff begin to investigate how to create a municipal average and provide Bank Directors with their findings. Bank Chair Walton formed a sub-committee of the Bank Board to work with staff on this issue. Bank Directors Fricke, Payne, and McElroy volunteered to be on the committee.

Note: After the Bank meeting adjourned, Director Davis expressed an interest with joining the committee. Director Davis was added to the committee by Chair Walton.

Council Chair Richko added that legal opinions need to be involved.

Chief Counsel Maher announced that he is retiring and Christine LaRocca, Senior Counsel will be handling legal matters for the Council until a new Chief Counsel is hired.

Bank Chair Walton thanked Mr. Maher for his service and wished him well in retirement.

Director Payne made a motion to adjourn the meeting and Director Davis seconded it. The meeting adjourned at 10:57am.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Development Credit Bank Board.

Date: 7-19-19

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant

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HIGHLANDS DEVELOPMENT CREDIT BANK
MINUTES OF THE MEETING OF JUNE 28, 2019

Council approved the Highlands Development Credit Bank Minutes of June 28, 2019 at its July 18, 2019 meeting:

Vote on the Approval of The Minutes	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede			√			
Councilmember Carluccio			√			
Councilmember Dougherty						√
Councilmember Dressler			√			
Councilmember Francis			√			
Councilmember Holtaway	√		√			
Councilmember James			√			
Councilmember Sebetich						√
Councilmember Visioli		√	√			
Councilmember Vohden			√			
Councilmember Walton			√			
Chairman Richko			√			