

NEW JERSEY HIGHLANDS WATER PROTECTION  
AND PLANNING COUNCIL  
MINUTES OF THE MEETING OF JUNE 12, 2008

**PRESENT**

JOHN WEINGART ) CHAIRMAN

TRACY CARLUCCIO ) COUNCIL MEMBERS  
MIMI LETTS )  
TIM DILLINGHAM )  
KURT ALSTEDE )  
BILL COGGER )  
ELIZABETH CALABRESE )  
TAHESHA WAY )

**ABSENT**

ERIK PETERSON )  
JACK SCHRIER )  
GLEN VETRANO )

**TELECONFERENCE**

SCOTT WHITENACK )  
JANICE KOVACH )  
DEBBIE PASQUARELLI )

**CALL TO ORDER**

The Chairman of the Council, John Weingart, called the 71<sup>st</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:23 am.

**ROLL CALL**

The members introduced themselves.

**OPEN PUBLIC MEETINGS ACT**

Chairman Weingart announced that the meeting was called in accordance with the Open Public meetings Act, N.J.S.A. 10:4-6 and that the Highlands Council had sent written notice of the time, date, and location of this meeting to pertinent newspapers or circulation throughout the State and posted on the Highlands Council website.

**PLEDGE OF ALLEGIANCE** was then recited.

**APPROVAL OF MINUTES OF June 5, 2008**

*Ms. Letts introduced the motion to approve the minutes. Ms. Calabrese seconded the motion.* Ms. Swan noted that Ms. Pasquarelli asked for a change to her comments regarding wastewater management plan and explained those changes. Ms. Pasquarelli was agreeable to those changes. *All other members present voted to approve. Mr. Peterson, Mr. Schrier, Mr. Vetrano, Mr. Alstede, and Ms. Kovach were absent. The minutes were APPROVED.*

**CHAIRMAN'S REPORT**

Chairman Weingart spoke about the schedule that he had discussed last week and the considering of amendments at the June 26<sup>th</sup> meeting. He stated that he believes it would be better to have a resolution on July 17<sup>th</sup> and that amendments be made at that time with voting and public comment. He stated that it would be beneficial for Council members to be able to review amendments that other members would bring forth. The Chairman asked the members to write up amendments and present them additionally on July 10<sup>th</sup>. On July 17<sup>th</sup> the amendments will be formally introduced and voted on for approval.

Ms. Carluccio supported this schedule and expressed that she was concerned that all of the issues may not be raised prior to the meeting on June 26<sup>th</sup>. She stated that being able to discuss the amendments on the July 10<sup>th</sup> meeting will help to make the members more informed. Ms. Swan asked the Chair if amendments could be sent to her for staff review and he agreed that this was the intention.

Ms. Letts asked about public input and specific amendments that have been requested. Chairman Weingart stated that they have received emails about amendments and that the public may submit comments but that the official comment period is over. He recognized Jan Barry who is retiring at the end of the month.

MS. KOVACH JOINED THE MEETING VIA TELECONFERENCE.

### **EXECUTIVE DIRECTOR'S REPORT**

Ms. Swan stated that a tentative schedule has been drafted. The Council members received the schedule and it is available to the public. She noted that this is a tentative schedule and will be subject to changes. Ms. Swan also discussed that the Highlands Build Out model should be posted by the end of business day today, including the appendices. She explained that a short report will accompany the model for further clarification.

### **COMMITTEE REPORTS**

None to consider.

### **CONSIDERATION OF RESOLUTION – Approval of Certain Planning Assistance Grants**

None to consider.

Ms. Pasquarelli had a question regarding two issues on the agenda for June 26<sup>th</sup>: WQMP policies and the Prime Ground Water issues. She asked where does the Council stand on these issues. Ms. Swan clarified that the staff is revisiting the WQMP recommendation and revising it in accordance with Council's discussion. Chairman Weingart explained that the Council voted to not support the staff's recommendation on this issue but did not resolve the matter. Regarding the Prime Ground Water Recharge, the Council asked for a white paper for further clarification. This paper is complete but will be sent after the meeting, as the agenda and packet for this meeting is quite large and the staff would like the Council to have sufficient time to review it.

Chairman Weingart clarified the schedule for future meetings.

### **REGIONAL MASTER PLAN DISCUSSION**

Ms. Swan recognized that sometimes it is difficult to follow the presentation and find the corresponding document, so she stated she would point out the specific document being discussed.

### **A. Forest Resource Management Program**

Ms. Swan began her presentation with an overview of the program changes within the Forest Resource Management and Sustainability Program. She noted that this program was updated to support the revised GPOs. Text was added regarding the fact that a partial cost-share reimbursement is available for non-profit organizations through the New Jersey Forest Service's Forest Stewardship Program. The Third Party Certification for Highlands Resource Products element was removed from the program as staff has concluded that this is not a realistic goal at the time and that it is more important to focus on sustainable guidance which is the first step toward a certification scheme.

Ms. Carluccio asked about Objective 1C2D regarding the removal of "could be used....farmland assessment tax credits". She discussed supporting incentives for the fulfillment of stewardship goals. Ms. Carluccio then discussed the Council's previous discussion of allowing credits instead of cash as a substitute in these plans (which is different under the Woodland Management Plan). Ms. Swan stated that the language added at the beginning of this Objective was broad enough to encompass incentives and opportunities. Public comments received expressed concern regarding the mention of the Farmland Assessment Act as opening it up might be an issue. Thus the concept for credits and incentives was supported without the specific mention of the Act.

Chairman Weingart expressed that the beginning of this objective was broad enough to cover not only the Farmland Assessment Act but others means of implementing this goal. Ms. Carluccio asked for an amendment (and stated that the Council has supported this concept in the past) to allow for an adjustment to allow Forest stewardship credits in lieu of cash which will support individuals who would not want to be cutting down trees. She explained that under the Farmland Assessment, individuals are being forced to cut down trees on their properties in order to receive their assessment. She asked that the language regarding the Farmland Assessment not be removed.

Ms. Swan explained that this issue will be coming up later in the meeting, and she also noted that a representative from the Farm Bureau and/or the Department of Agriculture has requested that the Farmland Assessment Act not be opened. Chairman Weingart stated that the language is broad enough to leave this issue open to be changed in the future and will allow time for the Council to hear comments from the individuals and Departments that supported the language being removed.

Mr. Dillingham stated his support for keeping this Objective more specific. He expressed that it doesn't do any harm to leave the language in place. Ms. Letts expressed her support for the farmers asking that the language be removed as they are best to make that judgment.

### **B. Restoration of Streams and Riparian Areas Program**

Changes were then outlined regarding the Restoration of Streams and Riparian Areas Program. A Functional Value Assessment was added which provides a measurable and scientific approach to ensure improvements to stream buffer functional values. There was also the addition of a Stream Corridor Protection/Restoration Plans element to identify areas where existing land uses within buffers have impaired the functional values of those buffers and to identify opportunities for restoration of those areas. The final version of the GPOs for this section includes revisions considered by the Highlands Council on May 22, 2008 and highlights sections where changes have

been proposed based on Council discussion. Ms. Swan pointed out the areas highlighted within Objective 1D4I, which were in response to the Council's recommendations.

Mr. Dilligham expressed his concerns about buffer widths and the ability to adjust those buffers. He stated that this creates a loophole and will create issues regarding the protection element of the buffers. He asked for the deletion of #4. Ms. Carluccio supported the idea of deleting these (specifically within 1D4I). She expressed concerns about the buffers being able to be reduced. She explained that through the NJDEP adjustments water areas have been encroached upon and she stated that allowing towns to reduce their buffers will create further disturbance. She asked for the removal of 1D4I.

Mr. Cogger stated that the Highlands Council and staff's science needs to be supported throughout different objectives and standards and he expressed concern that sometimes science was supported but not consistently. There was discussion on the application of a set buffer throughout all areas. Dr. Van Abs clarified that this objective was only for areas with disturbance not in undisturbed areas. Ms. Letts stated that in previous discussions, topography surrounding the body of water was discussed as it might influence the functional values of the buffer. She expressed that flexibility is necessary for restoration to work. Ms. Pasquarelli stated that she did understand Mr. Cogger's point about supporting the science, but that there are issues where there aren't certainties within the science. She expressed that some areas have more established and supportive science than others. These issues are different in many ways.

Ms. Calabrese clarified that the municipality would work with the Council staff within their plan conformance on this issue. Ms. Swan stated that the staff would provide support and that the Council would vote for final approval of a stream restoration plan. Mr. Dillingham stated that the language isn't clear that it is limited to disturbed areas (section 4). He stated the difference in a restoration plan and modification of the buffers. Mr. Dillingham stated that there isn't a template and supportive evidence regarding reducing these buffers.

Chairman Weingart clarified that #1 needs to be repeated within #4. For instance, "within those areas" identify potential areas. Mr. Dillingham stated his lack of understanding of "where the 300ft buffer is not necessary". He stated that this language will open much argument over where it is in fact necessary.

Ms. Carluccio stated support for Ms. Pasquarelli's comment that it is important that there is clarification on what defines previously disturbed areas. She expressed that this will not allow for the 300ft buffer in areas where there is agriculture and where it is fully developed. This would affect the Council's ability to restore waterways. She mentioned that the integrity of the waterway isn't properly taken into account.

Ms. Letts explained a situation where a builder is willing to restore a waterway if he is able to do something within the 300ft buffer. Ms. Carluccio stated that this needs a site by site analysis. Ms. Letts discussed incentives to have builders assist in restoration. Ms. Swan clarified that there needs to be an analysis and that the Council has to vote on final approval, so if they believe that this analysis is too broad, they can disapprove.

Ms. Carluccio stated that this doesn't appropriately address the needed flexibility within this objective. She mentioned that the science supported the 300ft buffer and that with this objective

there may not be any restoration. Mr. Cogger clarified that this will be done during plan conformance and that the Council will be able to vote on the plan. Ms. Swan explained that the Council can reject the plan and then work on a specific site if necessary. Mr. Cogger supported the need for flexibility. Mr. Dillingham stated that there need to be as much predictability within this plan as possible. He agreed that there needs to be flexibility, but that the language isn't clear enough to provide the needed protection. There was discussion on what changes would need to be made to this objective to make it acceptable to Council members with enough flexibility for restoration to still work.

Ms. Carluccio asked for it not to be town wide but site by site. She stated that she doesn't see the functional analysis being completed with enough detail, for the entire town. Ms. Letts asked about town ordinances which address the 300ft and that it can be changed only with a restoration plan. Ms. Carluccio supported specific buffers and that flexibility can be added on a site by site basis. She stated that there needs to be two sections: one dealing with restoration and one dealing with flexibility of buffers. Mr. Cogger stated that he can see how a town wide analysis may be beneficial in certain projects. Mr. Dillingham agreed that particularly in redevelopment areas, a broader analysis may be best. Chairman Weingart stated that there is clear support for clarification of language regarding disturbed areas, but not a majority support for amending the entire objective.

### **C. Water Deficit and Efficient Use of Water Programs**

Ms. Swan continued her presentation with changes to the Water Deficit Reduction Program. Additional text was added to the Program summary regarding what types of water uses are part of a net water availability analysis. Objective 2B8b and relevant program language were modified to reflect the Council's discussions on white papers. The modifications included the Water Use and Conservation Management Plans being required for all subwatersheds (especially in deficit areas), the range of mitigation requirements (125% to 200%), the contents of the mitigation plans, the timing of mitigation being relative to the volume of increased consumptive/depletive water uses and the existing deficit, and clarifications on enforcing mitigation. The need for coordination with NJDEP water allocation permit program is also emphasized.

Mr. Dillingham has questions about 2b8b language changes, regarding new consumptive uses. Dr. Van Abs clarified that that this language was to include approved or permitted new uses. He explained that "new" means "new to be approved". Mr. Dillingham expressed concerns about deficits that are currently in place even with some permitted uses not being maximized. He wanted to know how will this be accounted for and how will it affect the deficit. He asked if the language "increases in or new" would cover both usage and allow the Council to review that usage. Mr. Dillingham expressed his concern about increased usage not being reviewed by the Council. Dr. Van Abs replied with an explanation of the permit process and the authority of the Council. He also clarified the water allocation process within NJDEP and how it needs to be consistent with the RMP policies.

Ms. Swan explained the Council's authority over new permits and recognized Mr. Dillingham's concern of increased water use. She asked if an addition of an objective regarding increased consumptive depletive use and providing a recommendation to NJDEP consistent with the rules would satisfy council.

Chairman Weingart asked if there could be a statement regarding "proposed increases in approved consumptive or depletive water use shall occur" added. He clarified that NJDEP approved

increases will be not be reviewed by the Council. Therefore, they discussed that the language be modified to make the term “new” clearer to include both new facilities/projects or new use within an existing facility/project. It was agreed that the language be modified to include permit modification potential.

Ms. Swan then discussed the changes within the Efficient Use of Water Program. The Program summary provides more examples of appropriate methods to enhance efficiency of water use. Both Policy 2B4 and the new Objective 2B4 clarify the importance of efficient water use in all situations, and the importance of water use availability and efficiency for compatible agricultural water uses.

Ms. Swan explained that this was modified due to Council recommendations to make it clear that all situations reflect the important of efficient water use and language was added about agricultural uses, the difference between Planning and Preservation areas was directly from the Act.

She explained that there were limited modifications to reflect GPO changes and links to Water Deficit Reduction Program as well as to provide more specifics regarding water loss reduction methods and irrigation efficiencies. More detail on the transfer limits and the potential role of beneficial water reuse was provided in the discussion of water transfers between subwatersheds. Ms. Swan noted that the requirement for Water Use and Conservation Management Plans for all subwatersheds is stated in this section along with the potential for combined Plans and cooperative planning efforts. The deficit mitigation requirements included more detail such as the thresholds for mitigation prior to initiation of a depletive/consumptive use.

Mr. Dillingham asked for clarification that there would still be water allocated within deficit areas before mitigation. Ms. Carluccio asked if the mitigation program has to have begun or the mitigation requirements have to be met. She expressed that there should be mitigation prior to new usages. Dr. Van Abs clarified that proof of mitigation is required. Ms. Carluccio stated that this will not have “done away with” the deficit.

#### MR. ALSTEDE JOINED THE MEETING.

Ms. Letts discussed the plans and conservation methods being asked of the areas within the Highlands but nothing being asked for others benefiting from the Highlands water. Ms. Swan stated that this was being addressed under the water usage fee, but that additional language could be added to address those areas.

#### **D. Agricultural Resources Program**

The changes to the Agricultural Resources Program were then discussed. Both the Issue Overview and Program Summary were expanded for clarification and to be consistent with the GPOs revisions. The Program components were also rearranged in order to be consistent with the flow of the revised GPOs. Within Policy 3B4 the language “advocate for the amendment of the Farmland Assessment Act to permit inclusion of credits” was revised to “support incentives and funding opportunities” for the control of invasive species, white-tailed deer reduction programs, and the water value of well-managed agricultural lands. Policy 3E3 was revised to state that conforming counties and municipalities should include Right to Farm provisions in their master plans and development regulations if they have farmland preservation programs or a significant agricultural land base. Mr. Dillingham asked for details about the Right to Farm Act. Mr. Alstede replied explaining that the municipalities need Right to Farm provisions. Mr. LeJava read from the Highlands Act regarding the recognition of the Right to Farm Act.

Ms. Swan explained that the Implementation of Strategies to Promote Preservation in the Agricultural Resource Area and the Agricultural Priority Areas (APA) (previously called the Establishment of Agricultural Preservation Priorities) includes discussion of the confidential inventory of agricultural lands. She pointed out that the Cluster Development section was merged with the Development of Cluster/Conservation Design Standards and expanded to reflect clarifications and changes to the Cluster Program GPOs. There was a revision to the section “Serve as a Regional Clearinghouse” (previously called the Establishment of a Farmland Preservation, Stewardship, and Technical Assistance Program) so that it would be consistent with Policy 3A8.

The section regarding the Establishment of Alternative/Innovative Agricultural Preservation Programs was expanded to be consistent with GPO discussions. The Program discussion on impervious cover limitations was expanded to include a brief discussion on the USDA NRCS Farm and Ranch Lands Protection Program. Lastly, a new Program discussion was added to specifically address the Right to Farm Act. Ms. Swan stated that there will be coordination with the SADC which manages a Right to Farm Program in partnership with the CADBs.

#### **E. Historic and Scenic Resource Protection Program**

Ms. Swan continued her presentation with the Historic Resource Protection Program changes. This Program was updated to support the GPOs and was expanded in response to public comments received. An item was added which encourages alternative strategies such as adaptive reuse.

Regarding the changes to the Scenic Resource Protection Program, there were updates to support the GPOs and the Program was expanded in response to public comments and for greater clarity. Items were added encouraging alternative strategies and encouraging municipalities and counties to pursue designation of scenic byways. Ms. Letts asked about the language commission versus committee and asked the language to be changed to committee. Mr. LeJava recommended changing the language to be more generic, such as using the term entity. Mr. Alstede asked about a nomination process for Scenic Resources. Ms. Swan explained that this was dealt with under procedures, but is not part of the actual plan.

#### **F. Transportation Program**

The Transportation Program was edited to reflect updated GPOs and to include additional language regarding the recognition of transportation projects that promote a sound and balanced transportation system consistent with smart growth strategies and principles. The Program narrative was also edited to include language regarding the seven regional airport facilities in the Highlands Region, scenic corridors and by-ways as well as agri-tourism.

Ms. Swan noted that the staff will be listing projects, after updates from Voorhees, for the Council’s review in a future meeting. Ms. Swan wanted to note a change that was made in the second to last page of the Transportation document within the statement “generally evaluate the following” if you look at #2, it was modified to be consistent with the requirement of policy 5B3. This was done in response to a request from DOT. Ms. Swan and Mr. LeJava clarified exemptions and where transportation projects would and would not be exempt.

#### **G. Land Use Capability Analysis Program**

Ms. Swan then outlined clarifications that were made to the Land Use Capability Analysis section. Language was added to clarify that the local build out process will include the Land Use Capability Analysis using the Highlands Regional Build Out Model as a tool. There was also text added for

clarification that the Water Use and Conservation Management Plans will be used to inform the local Land Use Capability Analysis. Lastly, regarding the extension of water and wastewater utility services the distinction between the Preservation Area (NJDEP waiver only) and the Planning Area was clarified.

## H. Cluster Development Program

The Cluster Program was revised to be consistent with the GPOs. Ms. Swan explained that the Issue Overview was revised to include a general discussion on funding constraints associated with preserving land through fee simple and easement acquisition as well as to include cluster and lot-averaging provisions under the New Jersey Municipal Land Use Law (MLUL). Within the Program Summary, emphasis has been added that municipalities considering the use of clusters will be encouraged to take a holistic approach to planning for the entire municipality through the Plan Conformance process. Ms. Swan also stated that the language within the Program Summary and General Provisions was revised regarding the developed portion of the cluster project area in order to reflect GPO changes requiring that the developed portion occupy no more than 10% of the cluster project area (to the extent feasible) if served by a public or community on-site wastewater system. The design of the developed portion of the cluster project area will consider existing community character and Low Impact Development (LID) in addition to smart growth principles. Both existing community character and LID have been defined in the General Provisions of this section.

Ms. Swan continued her discussion on the Cluster Program Changes with the addition of General Provisions on non-contiguous clusters and lot-averaging, so that it would be in accordance with the MLUL and meet the resource management and protection requirements of the RMP. The specific requirements on Cluster Design which were originally organized by LUCM Zone are now organized by the resource targeted for protection (Environmental Protection or Agricultural Preservation). Within the Cluster Design for Environmental Protection, passive recreational trails are allowed provided they do not disturb habitats for threatened and endangered species and they are required to be naturally landscaped with native pervious surface (where feasible trails shall link to existing trail networks). The Cluster Design for Agricultural Preservation now requires a deed of easement with language similar to the SADC Farmland Preservation Program easement. Ms. Swan explained that the deed of easement and a legally enforceable Homeowner's Agreement, where applicable, shall include Right to Farm (RFT) Act provisions.

Manmade historic or archaeological features, such as rock walls, shall be retained in the developed portion of the cluster in addition to existing natural features. Ms. Swan continued explaining the changes to the cluster program pointing out that the required setbacks by LUCM Zone have been removed as these setbacks will not allow flexibility in cluster design to avoid Highlands' resources and would promote more impervious cover by extending roads and driveways to meet the setbacks. This will be discussed with municipalities during Plan Conformance. She explained that ordinances do not establish setbacks, but include a basic requirement that individual lots, buildings, structures, streets, and parking areas are situated to minimize the alteration of natural features, natural vegetation and topography (these will be outlined in the Cluster Development Design Guidelines and Standards including model cluster ordinance language and examples).

Mr. Dillingham asked about guidance within cluster design. Dr. Van Abs explained low impact designs and also read from this section within the Program. Ms. Swan then presented slides, as per the Council's request, that showed real life examples of cluster scenarios within specific block and

lots. Septic yield, On-site Package Plant, and sewer plans were outlined. Ms. Carluccio asked about the on-site package plant, whether 90% would be protected. Ms. Swan stated that it would be protected.

Mr. Cogger asked if a building unit will be with the preserved land. Ms. Swan stated that this is being open based on the specific cluster. Dr. Van Abs explained that it would depend on who owned the land and there are numerous possibilities. Mr. Cogger stated concern that by not including a farmstead, you are leaving the area open to be preserved but not maintained. Ms. Swan expressed that these slides have been shared with NJDEP.

### **I. Low Impact Development Program**

Ms. Swan then continued her presentation regarding the changes within the Low Impact Development Program. She explained that this program was updated to support the GPO's and expanded to provide more details and components to advance the GPO's. There were also additions including site design & development process, open space & landscaping details, a water conservation section as well as a stormwater management section which included an 80% on-site stormwater capture goal.

### **J. Sustainable Economic Development Program**

This program was both edited to reflect updated GPO's and to improve clarity. A discussion was added regarding the requirement for conforming municipalities to develop or amend an existing economic plan element. This requirement recognized that these plans will vary based on the size, composition, and current economic conditions of the municipality, as well as its plan for future growth.

### **K. Plan Conformance Program**

Ms. Swan reviewed the changes to the Plan Conformance Program. These revisions provide greater detail on the requirements, particularly: to include review for RMP Updates as Step #1, Provide information on Filing of Petitions (Planning vs. Preservation Areas regarding timing and requirements) and notices of intent to petition, as well as to discuss model highlands supplements including both the Highlands Master Plan Element and the Highlands Resource Regulations). This section was also revised to discuss basic plan conformance and to outline requirements for plan conformance.

Mr. Dillingham expressed his negative experience with the State Planning Commission with regard to Initial Plan Endorsement. He cautioned that the Council be careful that these processes not be drawn out and therefore negatively effect the natural resources the Council is trying to protect.

### **L. Agency Coordination and Local Participation Programs**

No slide was presented as there were no significant changes to these programs.

### **M. Highlands Project Review Program**

The next section of the presentation outlined the changes to the Highlands Project Review Program. The discussion of the exemption determinations in the Planning Area were removed as the staff concluded that these determinations were not RMP consistency determinations and do not belong in this program. Updates were made to the review standards for each RMP element to reflect the changes that were made to the individual GPOs and programs. Ms. Swan noted that the Prime

Ground Water Recharge recommendations will be presented for consideration at the June 26<sup>th</sup> meeting.

Ms. Swan presented a slide on the Local Participation Program's GPO changes. There were edits to improve the clarity of the local participation GPOs and a policy was added to ensure public participation in municipal and county conformance activities; particularly, to require the statutory minimum be met(Notice, Open Public Meetings) and to encourage community visioning and other forums. She clarified that Master Plan changes required Public Hearings. An objective was added to the RMP Monitoring Policy to include a Fiscal Impact Assessment in the Highlands RMP Monitoring Review Report.

#### **N. Water Resources and Ecosystem Science Agenda**

There are no slides on this area as there were no significant changes to this area. Ms. Carluccio mentioned that a vote is still missing regarding assessing the impact of the HUC 14 nitrate levels by not monitoring wells as new developments go into HUC 14 areas. She expressed an issue with the 2mg as the target and wanted to make sure that there weren't any changes that would require such monitoring.

#### **O. Regional Master Plan Monitoring Program**

Ms. Swan then continued with reviewing the changes to the Regional Master Plan Monitoring Program. This Program was edited to reflect updated GPOs, including a reference to a fiscal impact assessment to be included in the Highlands RMP Monitoring Review Report. This Program was also edited to improve clarity. Ms. Swan drew attention to the statement "at least every 6 years" for the timing for the fiscal assessment, this timing was consistent with the timing of the RMP for reexamination.

#### **P. Highlands Council Implementation Programs**

The Highlands Implementation Program changes were outlined including edits to improve clarity and word flow. The priority definitions were clarified to indicate that the levels do not relate to importance but rather to the time needed to accomplish them. A petition for Plan Endorsement was added to items of immediate priority (required in 60 days). Lastly, the State and Federal Agency coordination was moved to an intermediate priority level.

Chairman Weingart reiterated the schedule, the next meeting being June 26<sup>th</sup> at 4pm, July 10<sup>th</sup> at 10 am (prior to which amendments should be written in and presented to the Council and staff), lastly the July 17<sup>th</sup> meeting at 4pm where the plan will be reviewed for adoption.

#### **PUBLIC COMMENTS:**

**TOM COLLINS, attorney and planner with a Morristown firm and represents many municipalities, particularly Hardyston and Byram:** Mr. Collins expressed objection for making the policies set in the Planning Area rather than allowing for voluntary conformance. They believe it is far reaching and not authorized by the Act. Based on the Act and according to law, the Council should not inadvertently impose restrictions it cannot impose directly. The RMP is incorrect in its mapping and affects Hardyston and Byram Township's ability to meet COAH requirements. The RMP for the Planning Area, as it currently is stated, would prevent the continuation of Smart Growth policies in the area and could force higher density housing in other areas. The WQMP policies should not be mandatory and could help future builders in going against municipalities.

Hardyston will be negatively affected by the Council's action to make these policies mandatory within the Planning Areas. Both municipalities have detailed their objections to the RMP and the mapping. He asked the Council not to make these municipalities have to wait for map adjustments, corrections or plan conformance for their smart growth plans to be effective through the RMP.

He noted correspondence from the municipalities to Chairman Weingart and his response, noting that conformance will not be mandated in the Planning Area. Mr. Collins also noted NJDEP responses to this mandate and to the implementation of NJDEP and Highlands rules. Both Byram Township and Hardyston urge the Council to not mandate this policy and to correct maps for both areas prior to conformance. He noted that in his opinion the mapping and the RMP are not ready for adoption. Particularly, as the RMP as written will affect municipalities ability to comply with both the Smart Growth and State Plan.

**DAVID TROST, Director of Community Development for Sparta Township:** He noted that Sparta Twp strongly objects to mandatory opting in for conformance. He expressed that this process is about trust and integrity. Sparta initially acknowledged the Preservation Area and the RMP, but now is looking to reject the whole plan. He stated that the trust of the municipalities is being broken. Specifically, he asked the Council to look at the mapping changes that have been requested within this municipality as the mapping does not reflect current condition. Mr. Trost expressed that the Council will not be able to operate if they are going to look at the projects on a case by case basis. He stated that this will affect not only the environment, the local residents but also economic development and the state as a whole. Lastly, he urged that Council to reconsider the WMP standards.

Ms. Swan expressed that map adjustments and updates are being cataloged and the staff will be working with the municipalities on these changes. She emphasized the difference between adjustments and updates and that certain information will be required to facilitate updates.

**ELLIOT RUGA, NJ Highlands Coalition:** He thanked the Council members for not accepting the staff's recommendation during the last meeting. He quoted sections from the Act and discussed how it relates to the WQMP standards. Mr. Ruga pointed out that he believes the Council should protect the Highlands without compromise. He also noted that the Council created the LUCMs with supporting science. Mr. Ruga discussed the future sustainability and that the Council needs to make difficult decisions to protect our resources.

Ms. Swan wanted to point out that when sections of the Act are read, it is important for the Council members to read the entire section, she gave the example of the section 34e that had been quoted but was septic thresholds for the DEP regulations in the Preservation Area.

Mr. Dillingham noted the public offers their perspective on these issues and that Council should both respect and properly represent their testimony, regardless of group or organization.

**SYLVIA KOVACS, Warren County:** Regarding streams and riparian areas, she discussed her experience with the issues of the functional analyses. She explained her experience with redevelopment. She stated her support for proactively promoting restoration. Within 1D4I, she recommended differentiating the definition for impervious cover within redevelopment and disturbed land. She also supported the idea of pushing for support for conservation measures for water users outside of the Highlands. She also supported comments on the difficulty of administratively following up on conditional approvals. Regarding Mr. Cogger's comments about

including a homestead on a farm, she agreed on having at least the option for a building to be included with the farm.

**DEBRA POST:** She discussed her apple trees and issues on her farm (as a metaphor). She stated that tax incentives need to stand alone with a new tax law. She asked the Council to stay away from the Farm Assessment. Ms. Post discussed the incentives for cleaning up contaminated areas and how those who do care for their properties do not receive incentives. She stated her belief that the water efficiency usage seems to only apply to those within the Highlands and not those using the Highlands water outside of the highlands.

**CHRISTINE, HEPBURN, Madison:** Ms. Hepburn expressed that she believes she is one of the many who support the plan and wants to see it implemented. She discussed the rural character within this area. Regarding the cluster presentation, she stated that in looking at the slides the one based on septic systems seems to go against the preservation the Council is trying to achieve.

**MONIQUE PURCELL, Department of Agriculture:** Regarding flexibility in buffers, she explained that this is important. She discussed functional value and how it is difficult to maintain. She stated her appreciation for the cluster presentation and how this is a good way of maintaining rural areas.

**WILMA FREY, NJ Conservation Foundation:** Ms. Frey discussed the Forest Resource sustainability, 1C2D, which initially included Farmland Assessment Program language, she pointed out that this is not just about farmers but also about public value. She asked for stronger language within this objective, at least to support regulatory and legislative incentives. The second issue, regarding the stream buffers, she stated that the change needs to be in the language regarding disturbed land versus existing development. It should be changed to existing development that includes impervious cover. She stated what shouldn't come under this language is farmland – it should not be removed from being able to be restored to the 300ft buffer. The third issue is within the scenic resources aspect, where it discusses the inventory of the highlands resources. She states that the Council simply needs to simply say that it identified the 131 publicly owned scenic resources which are already included in the DEP rules for the Highlands Preservation Area. The word "potential" should be deleted. She also asked for the deletion of "evaluate the initial baseline...refine the list" within the same sentence. She also asked for the inclusion of the Delaware and Musconetcong Rivers as well as the Highlands Millennium Trail.

**JULIA SOMERS, NJ Highlands Coalition:** Ms. Somers stated her support of Mr. Troast's comment that there is too much to do. She asked for the Council to drop mitigation in deficit areas and to keep buffers simple, but should differentiate between impervious cover and other development. She stated appreciation for the cluster presentation.

**DAVID SHOPE, member of the Farm Bureau:** Mr. Shope discussed the average amount of rainwater within NJ and the Council taking away people's equity for protection of water. He showed and discussed where water falls and where it flows (particularly in relation to pollution). He discussed Middlesex Water company and how they have raised their dividend again. Last week he had asked for the release of the confidential lists, and he is requesting that again. If this is not done, he considers it an issue of transparency. He discussed his belief that water deficit is a fraud and is simply politically based. Mr. Shope suggested shutting down the Pequest Fish Hatchery to conserve water. Regarding buffers, he mentioned the Strouds report and adjacent land use. Regarding

sustainable economic development, he cited eastern Europe and asked to Council to look at the corresponding fees which diminish land values. He then discussed rural character.

**JIM KILDUFF, Franklin Borough:** Mr. Kilduff discussed the presentation of Ms. Swan and Mr. Borden in Franklin Borough and thanked them for coming in spite of a difficult agenda which prohibited them from doing their full presentation. He stated the concern regarding the standards that may be mandated in the Planning Area.

**MARION HARRIS, Morris County for Historic Trust:** She stated that she was glad to see more detail emerging regarding historic preservation. She did state that the Council needs to revisit the use of the word commission versus committee. She explained the two different types of commissions, and pointed out that an advisory commission is necessary. Ms. Harris suggested that the standards that will be applied be included in the RMP (particularly how does the Council evaluate historic preservation since the Council doesn't have the authority to do historic preservation). She discussed legal standing and how to evaluate historic properties. Ms. Harris suggested using the Historic Sites Council and the State Review Board. She did state her support for cross referencing for historic preservation. Regarding the glossary, she clarified the meanings of the words historic and cultural. She asked for the definition of these terms so that they are identical.

**HELEN HEINRICH, NJ Farm Bureau:** Ms. Heinrich asked that cultural not be taken out but be defined more specifically. She discussed the importance of the Farmland Assessment Act to farmer and their property. Regarding clusters, she appreciated the presentation, and thought it represented the smaller amounts of development within cluster areas. She explained misconceptions and stated that there are many expensive steps that must be taken for farmers to pursue clustering on their properties. She expressed concerns with large lot zoning with minimal agriculture and how clustering would meet many of the farmers concerns. Ms. Heinrich stated that the one development that does not have to do a plan, is the cluster for environmental space and she wanted to know why this is the case.

**STEVE KULLESSAR, Gracie & Herrigan Consulting Foresters:** He supported leaving Farmland Assessment out of the RMP and spoke about an example regarding the Farmland Assessment. He explained how non-tree cutting was utilized within properties and how they still received Farmland Assessment. Regarding 1b2A, he expressed that he didn't understand the difference between #2 and #3 and expressed that he didn't find this to be realistic. He explained that the forest inspectors do also enforce that ban on excessive cutting provisions. At the end of the objective, he believes that the public and private forests should be compared regarding their management (sometimes the cutting of trees can be beneficial).

Mr. Dillingham stated his support for looking into the different forestry management practices. He also stated that the information regarding practices and examples (such as those that Mr. Kullessar mentioned) could be very useful for the Council and staff.

**ANDREW DRYSDALE:** He asked for clarification on the dates stated on zoning and the allocation credits. Mr. LeJava clarified that the date was simply for when the Council and staff had gathered all of the relevant zoning information. Mr. Drysdale discussed environmentalists and corruption within government. He discussed the complexity of the RMP and the different levels and red tape that people will need to go through. Chairman Weingart stated that he hadn't

addressed Mr. Shope's question about the confidential memo, and responded that it was a confidential legal memo and will not be released to the public.

<u><b>Vote on the Approval of</b></u> <u><b>these Minutes</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Abstain</b></u>	<u><b>Absent</b></u>
Councilmember Alstede	✓	_____	_____	_____
Councilmember Calabrese	✓	_____	_____	✓
Councilmember Carluccio	_____	_____	_____	✓
Councilmember Cogger	✓	_____	_____	_____
Councilmember Dillingham	✓	_____	_____	_____
Councilmember Kovach	✓	_____	_____	_____
Councilmember Letts	✓	_____	_____	_____
Councilmember Pasquarelli	✓	_____	_____	_____
Councilmember Peterson	_____	_____	_____	✓
Councilmember Schrier	_____	_____	✓	_____
Councilmember Vetrano	_____	_____	✓	_____
Councilmember Way	✓	_____	_____	_____
Councilmember Whitenack	✓	_____	_____	_____
Councilmember Weingart	✓	_____	_____	_____

## **PUBLIC COMMENTS SUBMITTED**

[**Green Cells** = the 3 sites with most samples meeting the standard or 3 sites with lowest median values for each constituent (highest median DO and alkalinity values);  
**Red Cells** = the 3 sites with most samples not meeting standards or 3 sites with highest median values (lowest median DO and alkalinity values); Alkalinity, biochemical oxygen demand, total ammonia + organic nitrogen (TKN) and total organic carbon do not have a standard; Ratings for pH and hardness are based on percent of samples meeting or not meeting both a high and low standard: \* , trout maintenance; \*\* trout production; # coastal plain waters have naturally low alkalinity]

Station Number	Nutrients			Inorganics						Other Constituents							
	Total Nitrogen	Ammonia + Organic Nitrogen	Ammonium, Un-ionized	Nitrite plus Nitrate	Organic Carbon, Total	Phosphorus, total	Alkalinity	Chloride	Dissolved solids, total	Hardness	Sodium	Sulfate	Biochemical Oxygen Demand	Dissolved Oxygen	Fecal coliform	pH	Suspended solids, total
<b>South Branch Raritan River Sub-basin</b>																	
*01396280 – South Branch, Middle Valley																	
*01396535 – South Branch, High Bridge																	
**01396588 – Spruce Run																	
*01396660 – Mulhockaway Cr.																	
*01397000 – South Branch, Stanton																	
01397400 – South Branch, Three Bridges																	
01398000 – Nesthanic River																	
<b>North Branch Raritan River Sub-basin</b>																	
**01398260 – North Branch, Chester																	
01399120 – North Branch, Burnt Mills																	
**01399500 – Lamington River, Pottersville																	
01399700 – Rockaway Creek																	
01399780 – Lamington River, Burnt Mills																	

Comments submitted at Highlands Council  
Meeting on June 12, 2008 by David Shope,  
Farm Bureau member page 2 of 2

Station Number	Nutrients				Inorganics				Other Constituents								
	Amm- onia + Organic Nitrogen	Amm- onia, Un- ionized	Nitrite plus Nitrate	Organic Carbon, Total	Phos- phorus, total	Alka- linity	Chloride	Dissol- ved solids,	Hardness	Sodium	Sulfate	Bio- chemical Oxygen Demand	Dissol- ved Oxygen	Fecal coliform	pH	Suspend- ed solids, total	Water temperature
<b>Millstone River Sub-basin</b>																	
01400540 – Millstone River, Manalapan					#												
01400650 – Millstone River, Grovers Mill																	
01401000 – Stony Brook, Princeton																	
01401600 – Beden Brook																	
01402000 – Millstone River, Blackwells Mills																	
<b>Raritan River Mainstem</b>																	
01400500 – Raritan River, Manville																	
01403300 – Raritan River, Bound Brook																	
01405302 – Matahonia Br.					#												
01405340 – Manalapan Brook					#												
<b>South River Sub-basin</b>																	
01405302 – Matahonia Br.																	
01405340 – Manalapan Brook																	

## A Note from the President

### To Our Shareholders,

For the quarter ended March 31, 2008, results were in line with our expectations. Consolidated operating revenues rose \$1.9 million or 9.8% over the same period in 2007. Earnings applicable to common stock were \$1.9 million, or \$0.15 per basic share, compared to \$1.7 million or \$0.13 per basic share in 2007.

### First Quarter Results

The rise in consolidated revenues was largely due to an increase in the Middlesex and Tidewater system base rates and higher consumption in both of those water systems. Revenues in the Middlesex system in New Jersey rose \$1.1 million as a result of a 9.1% base rate increase implemented in October 2007, and by \$0.2 million as a result of higher customer consumption. Revenues improved \$0.3 million in our Tidewater system in Delaware, of which \$0.2 million was the result of an additional 12% base rate increase implemented in February 2007. Customer growth and higher consumption contributed \$0.3 million of revenues. Fees charged for initial connection of new customers in Delaware were \$0.2 million lower in 2008 as new residential and commercial development has slowed. Revenues from regulated wastewater operations in Delaware increased by \$0.1 million due to customer growth. All other operations accounted for \$0.2 million of additional revenues.

### Board Declares Dividend

The Board of Directors declared a quarterly cash dividend of \$0.1750 per share, payable June 2, 2008, to common stockholders as of May 15, 2008. The Company has paid cash dividends in varying amounts continually since 1912 and has increased its dividends for 35 consecutive years.

### Rate Filings

In April, our subsidiaries in Burlington County, New Jersey, Pinelands Water Company and Pinelands Wastewater Company, filed requests with the New Jersey Board of Public Utilities for an increase in rates to help offset increased costs associated with the operation and maintenance of the water and wastewater systems as well as increased capital investment in those systems. Pinelands Water is seeking an overall increase of approximately \$115,000 and Pinelands Wastewater is seeking an increase of \$212,000. The rate proposal will be examined by the New Jersey Board of Public Utilities and the New Jersey Division of Ratepayer Advocate.

### Middlesex Earns National & Local Honors

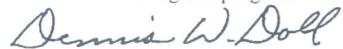
In March, Middlesex Water was named one of the top 100 most trustworthy publicly traded firms in the United States according to Audit Integrity, Inc., an independent Los Angeles firm that researches corporate governance best practices. Audit Integrity researched 8,000 public firms and selected its Top 100 based on their persistent excellence in transparent financial reporting and conservative corporate governance.

Middlesex is one of four utilities to make the Audit Integrity Top 100 list and ranks 6th among small-cap companies. We are honored to earn a place on this prestigious list and take our commitment to strong corporate governance very seriously. On a local level, Middlesex was also honored with the Outstanding "Green" Business award for its commitment to environmental stewardship and education/outreach.

### Driving Business Performance

Middlesex Water has selected Oracle USA to help integrate critical business processes and drive performance across all companies. The initiative, aptly named Project LINK, involves implementing the "Oracle for Utilities" suite of applications across a broad range of business processes over the next 18 months. We believe implementing this comprehensive technology platform is an important step in meeting increasing customer expectations, delivering on our growth strategy and adding to shareholder value.

Despite a presently weakened economy, your management team continues to be encouraged by the level of opportunity we see to expand our water and wastewater services beyond our current geographic borders. Our focus remains on delivering quality service for our customers, developing the skills of our employees and building long-term value for our shareholders. We thank you for your support and look forward to sharing our progress with you.



Dennis W. Doll  
President and Chief Executive Officer  
May 6, 2008

Comments submitted at Highlands Council Meeting on June 12, 2008 by David Shope, Farm Bureau member page 1 of 1



## CONDENSED CONSOLIDATED STATEMENT OF INCOME

(Unaudited)

(In thousands except per share amounts)

	Three Months Ended March 31,	
	2008	2007
Operating Revenues	<u>\$20,855</u>	\$18,988
Operating Expenses:		
Operations	11,102	10,192
Maintenance	996	978
Depreciation	1,931	1,845
Other Taxes	2,479	2,251
Total Operating Expenses	<u>16,508</u>	15,266
Operating Income	<u>4,347</u>	3,722
Other Income:(Expense)		
Allowance for Funds Used		
During Construction	103	112
Other Income	241	226
Other Expense	(46)	(5)
Total Other Income, net	<u>298</u>	333
Interest Charges	<u>1,517</u>	1,384
Income before Income Taxes	<u>3,128</u>	2,671
Income Taxes	<u>1,124</u>	902
Net Income	<u>2,004</u>	1,769
Preferred Stock Dividend Requirements	<u>62</u>	62
Earnings Applicable to Common Stock	<u>\$ 1,942</u>	\$ 1,707
Earnings per share of Common Stock:		
Basic	\$ 0.15	\$0.13
Diluted	\$ 0.15	\$0.13
Average Number of		
Common Shares Outstanding:		
Basic	13,254	13,176
Diluted	13,585	13,507
Cash Dividends Paid per Common Share	<u>\$0.1750</u>	\$0.1725

## Visit Our Investor Relations Website:

To learn more about developments at Middlesex Water Company and to register for periodic e-mail updates, please visit the Investor Relations Section of our website at [www.middlesexwater.com](http://www.middlesexwater.com)