

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MINUTES OF THE MEETING OF NOVEMBER 20, 2008

**PRESENT**

JOHN WEINGART ) CHAIRMAN

BILL COGGER )  
MIMI LETTS ) COUNCIL MEMBERS  
KURT ALSTEDE )  
SCOTT WHITENACK )  
TRACY CARLUCCIO )  
ERIK PETERSON )

**TELECONFERENCE**

GLEN VETRANO )  
JANICE KOVACH )

**ABSENT**

ELIZABETH CALABRESE )  
TAHESHA WAY )  
TIM DILLINGHAM )  
DEBBIE PASQUARELLI )  
JACK SCHRIER )

**CALL TO ORDER**

The Chairman of the Council, John Weingart, called the 79th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:20 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.

**APPROVAL OF MINUTES OF October 30, 2008**

*Mr. Cogger introduced the motion to approve the minutes. Mr. Alstede seconded the motion. Ms. Calabrese, Ms. Way, Mr. Dillingham, Ms. Pasquarelli, Mr. Vetrano and Mr. Schrier were absent. All other members present voted to approve. The minutes were APPROVED.*

**CHAIRMAN'S REPORT**

Chairman Weingart reported that hard copies of the RMP have been received from the printer. He noted that there were challenges in getting the RMP printed and congratulated the staff for their work on the RMP. He announced that copies of the RMP will be available to the public as of December 1, 2008.

## **EXECUTIVE DIRECTORS REPORT**

Ms. Swan expressed the staff's pleasure with the delivery of the final printed RMP. She noted that it has been arranged in a way that is easier to navigate. Recycled paper was used which is consistent with the mission of the Highlands Council.

Since the last Council meeting, a joint session regarding Plan Conformance was held with the State League of Municipalities on the November 10<sup>th</sup>. Professionals from municipalities throughout the Highlands region (including 66 of the 88 Highlands municipalities) were represented. The program included background on the RMP, the impact of EO114, the process of Plan Conformance, and the immediate necessary actions. In addition, the program addressed initial assessment grants, build out methodology, long term planning and Highlands project review. Primary focus was on the necessity for immediate action (before the end of the year) regarding the need to adopt resolutions regarding a Notice of Intent to conform to the RMP and the Resolution requesting an extension and expressing intent to petition COAH. These two resolutions will allow a conforming municipality to receive adjusted affordable housing projections as well as an extension, to December 8, 2009, regarding COAH fair share plans. She noted that many municipalities were waiting to see the MOU with COAH before filing their intent to conform. The two resolutions: the notice of intent to conform, as well as the request for extension to COAH need to be completed as soon as possible by municipalities. The feedback from the joint session was very positive. Ms. Swan also noted that this was an opportunity for the municipalities to meet the staff of the Highlands Council who will be assisting them in conformance.

## **GLEN VETRANO JOINED THE MEETING VIA TELECONFERENCE.**

Ms. Letts and Mr. Cogger stated that they received positive feedback as well. Ms. Swan extended her gratitude for the League of Municipalities for assisting with the session. Specifically, she thanked Mayor Art Ondish for his assistance and participation.

Ms. Swan noted that there was a form for conflict of interest for Council members to fill out.

Ms. Swan explained that information regarding Senate Bill 713 which has been discussed throughout development of the RMP, was included in the packet. Senate Bill 713 was released from the Senate Environment Committee November 13, 2008. The bill directs the Department of Environmental Protection (DEP) to establish a forest stewardship program for owners of forest land who prepare forest stewardship plans which are to be approved by the DEP. The bill also directs the DEP to establish a forest certification program under which it may certify that forest land is managed in a sustainable manner and expands the current farmland assessment program under the "Farmland Assessment Act of 1964" to provide differential property tax assessment to owners of forest land who implement an approved forest stewardship plan. Such an owner would not be required to meet the income threshold requirements of the Farmland Assessment Act for that woodland. The bill establishes the "Forest Stewardship Incentive Fund" which would be funded by monies currently allocated for programs that enhance the stewardship and restoration of the State's forests from the Global Warming Solutions Fund which would be used to provide grants for the development of forest stewardship plans. A forest stewardship advisory council will also be established to work in consultation with the DEP. Finally, the bill provides that activities conducted pursuant to a forest stewardship plan are exempt from the provisions the Highlands Act. The Act already exempts activities conducted pursuant to a woodland management plan from the Act.

Ms. Swan stated that the staff is continuing to work on RMP updates. Regarding the process for implementation and conformance – the Chairman had asked for a work plan which will be completed in December. Currently, it is important to make sure that the municipalities move forward with both of the necessary resolutions. Sample Resolutions have been provided to municipalities. Subsequent to that, the professionals of the municipalities will move forward with Plan Conformance which will begin with a local buildout analysis. This will be a partnership with the Highlands staff, as they will be providing a methodology to the municipality, and will allow for a clearer and smoother process. A model ERI (Environmental Resource Inventory), a Highlands Master Plan Element, and model ordinances are also being prepared for the municipalities. She noted that municipalities do not need to have taken final action on Plan Conformance documents, in fact is required that these documents be submitted as drafts.

Regarding conformance standards, the remaining standard the Water Conservation and Deficit Reduction Standard has been posted for public comment. The other standards that have been presented are being worked on. Regarding exemptions 9 & 11, comments from the Highlands Council have been requested by DEP. She noted there will be occasions where the Highlands Council will advise of their intent to comment on an exemption before DEP.

Ms. Swan noted that a recent exemption request was submitted by PSEG regarding the expansion of a power line through the area and there has already been in communication with DEP on this project. The staff is preparing further information regarding the impacts of that project in accordance with the exemption criteria. While DEP is considering exemption determinations in the Preservation Area, the Highlands Council will be considering exemptions within the Planning Area. Ms. Carluccio announced that she is recusing herself regarding any discussion on the PSE&G project as she has a conflict due to her employment with the Delaware Riverkeeper Network. This project crosses the Delaware River and the Network will be submitting comments on the project.

Ms. Swan explained that the Council's website now includes two maps, one includes municipalities that have applied for an initial assessment grant and the other includes those that have submitted a Notice of Intent to conform to the RMP. She presented slides reviewing these maps and noted that the staff is reaching out to municipalities regarding filing the notice of intent to conform as it may be beneficial to them regarding COAH timelines and is nonbinding for Planning Area lands.

Chairman Weingart requested that Ms. Swan provide an overview of the resolutions for Council consideration.

## **RESOLUTIONS**

### **I. CONSIDERATION OF RESOLUTION – Approval of Certain Planning Assistance Grants - (voting matter with public comment)**

The Highlands Council initiated a grant application process for Initial Assessment grants to municipalities within the seven Highlands Counties in furtherance of Plan Conformance, in an annual amount not to exceed \$1,500,000. Council staff reviewed the grant applications and recommend grants for Council consideration. Ms. Swan noted that there were 9 initial assessment grants, 1 TDR grant, and 2 CP3 grants. She asked the Chairman to address the initial assessment grants together.

## INITIAL ASSESSMENT GRANTS

Ms. Swan reviewed the history of grants for each of the following Townships applying for initial assessment grants:

Washington Township - Applying for an Initial Assessment Grant in the amount of \$15,000 (total project amount = \$20,300). Previously, they had received \$7,500 for a COAH Round-3 grant with an execution date of 12/2/05, a resolution date of 10/6/05 and a payment date of 5/15/06. Grants committee recommends awarding \$20,000 contingent on further definition of need.

Pohatcong Township – Applying for an Initial Assessment Grant in the amount of \$15,000. Previously, they had applied for a \$7,500 COAH Round-3 grant with an execution date of 4/28/06 and a resolution date of 4/6/06. There was no payment for this grant as the project has been stalled.

Mendham Township – Applying for an Initial Assessment Grant in the amount of \$15,000 (total project amount = \$22,500) Previously, they had applied for multiple \$7,500 COAH Round-3 grants: a Planning Area Grant executed on 2/17/06 with a resolution date of 10/6/05 and payment date of 9/19/07, and a Split Area Grant executed on 2/17/06 with a resolution date of 10/6/05 and payment date of 5/15/06.

Borough of Chester – Applying for an Initial Assessment Grant in the amount of \$15,000. Previously, they had received \$7,500 for a COAH Round-3 grant with an execution date of 2/27/06, a resolution date of 1/05/06 and a payment date of 6/28/06.

Borough of Oakland – Applying for an Initial Assessment Grant in the amount of \$15,000. This is their first grant request.

Borough of Far Hills - Applying for an Initial Assessment Grant in the amount of \$15,000. This is their first grant request.

Borough of Ogdensburg – Applying for an Initial Assessment Grant in the amount of \$15,000. This is their first grant request.

Borough of Mount Arlington - Applying for an Initial Assessment Grant in the amount of \$15,000. This is their first grant request.

Township of Allamuchy – Applying for an Initial Assessment Grant in the amount of \$15,000. This is their first grant request.

Chairman Weingart asked for public comments and there were none.

*Ms. Carluccio introduced the motion to approve the resolution. Mr. Whitenack seconded the motion. Ms. Calabrese, Ms. Way, Mr. Dillingham, Ms. Pasquarelli, and Mr. Schrier were absent. All other members present voted to approve. The resolution was APPROVED.*

Ms. Swan expressed that the staff would be working further with the Borough of Chester regarding the scope of this grant, but that the staff recommends approval of the grant.

## **TDR FEASIBILITY GRANT**

Borough of Chester – Applying for a TDR Feasibility Grant in the amount of \$25,000. Previously, they had received \$7,500 for a COAH Round-3 grant with an execution date of 2/27/06, a resolution date of 1/05/06 and a payment date of 6/28/06.

Chairman Weingart asked for public comments and there were none.

*Ms. Carluccio introduced the motion to approve the resolution. Mr. Whitenack seconded the motion. Ms. Calabrese, Ms. Way, Mr. Dillingham, Ms. Pasquarelli, and Mr. Schrier were absent. All other members present voted to approve. The resolution was APPROVED.*

## **MP3 GRANTS FOR LOCAL BUILDOUT ANALYSIS**

Bedminster Township – Applying for an MP3 grant for Local Buildout Analysis for \$15,000. Previously, in 2005, they had received \$7,500 for a COAH Round-3 grant with an execution date of 12/12/05, a resolution date of 10/6/05 and a payment date of 5/15/06.

Clinton Township - Applying for an MP3 grant for \$15,000. Previously, in 2008, they had received an executed grant agreement in the amount of \$7,500 for a COAH Round-3 grant with an execution date of 8/21/08 and a resolution date of 5/15/08. The COAH grant is pending payment.

Ms. Swan explained the importance of this work regarding testing the methodology of local buildout. It is one of the major components of plan conformance. Chairman Weingart asked for public comments and there were none.

*Mr. Cogger introduced the motion to approve the resolution. Mr. Whitenack seconded the motion. Ms. Calabrese, Ms. Way, Mr. Dillingham, Ms. Pasquarelli, and Mr. Schrier were absent. All other members present voted to approve. The resolution was APPROVED.*

Ms. Swan also noted that the staff has worked with the counties to assist with the necessary analysis that must be completed. Ms. Swan thanked Morris County and Somerset County, as well as their planners, for access to their data for comparison regarding consistency.

## **II. CONSIDERATION OF RESOLUTION – Chair for HCD Bank**

The Highlands Council established the Highlands Development Credit Bank (HDC Bank) by Resolution 2008-24 and pursuant to that the Highlands Council must appoint one member of the Highlands Development Credit Bank Board of Directors to serve as Chairperson.

Chairman Weingart introduced the resolution. He reviewed the board members appointed to the HDC Bank and noted that the Council needs to appoint a Chair for this committee.

Chairman Weingart asked for public comments and there were none.

*Mr. Alstede made a motion to nominate Mr. Whitenack as HDC Bank Chairperson. Mr. Vetrano seconded that motion. Mr. Alstede asked that nominations be closed. Mr. Vetrano seconded the motion. All members present voted to approve. The resolution was APPROVED. .*

Mr. Whitenack thanked his fellow Council members for the support and pledged to do his very best as HDC Bank Chair.

### **III. CONSIDERATION OF RESOLUTION – APPROVAL OF CONTRACT FOR AFFORDABLE HOUSING CONSULTATION- (voting matter with public comment)**

In order to comply with the new requirements of P.L. 2008, c.46 and the direction set forth in Executive Order 114, the Highlands Council adopted Resolution 2008-41 requiring, after public hearing and public comment, the adoption of affordable housing guidelines for the Highlands Region and to support the Highlands Council in the development of affordable housing guidelines for the Highlands Region. As a result, the Highlands Council prepared a Request for Qualifications (RFQ) seeking a firm to advise and assist the Highlands Council.

Ms. Swan noted that three proposals were received and reviewed and it is recommended that the Council enter into a contract with Group Melvin Design, which shall include a subcontract with Paul Chrystie Consulting, for an amount not to exceed \$125,000. Chairman Weingart asked for the timing of this and Ms. Swan responded that the consultant was asked to be available for intense work over the next six months.

Ms. Swan noted that there is an opportunity for a regional affordable housing plan (under Chapter 46, similar to the prior use of RCAs) which is only available to the regional planning agencies; the Highlands, the Pinelands and Meadowlands. Ms. Letts asked if the consultant will be looking to identify areas for affordable housing that fit the standards of the RMP. Ms. Swan stated that the consultant would be working with staff on guidelines that help create this new program. It is the staff that will be working with the municipalities regarding site specific details. Mr. Borden noted that the old RCA program will be utilized to help create a new program that addresses the economic variability throughout the Highlands Region using the economic information from the TDR program. The primary task will be to create this RCA program and a process for trading affordable housing obligations.

#### **PUBLIC COMMENT:**

**David Shope:** He stated his concern about the last paragraph of this resolution and the costs (as it doesn't add up to a specific number). Mr. Borden stated that there is a dollar amount noted within the bylaws, so there will be a maximum increase of \$25,000 without approval from the Council.

*Ms. Carluccio introduced the motion to approve the resolution. Mr. Whitenack seconded the motion. Ms. Calabrese, Ms. Way, Mr. Dillingham, Ms. Pasquarelli, and Mr. Schrier were absent. All other members present voted to approve. The resolution was APPROVED.*

#### **IV. CONSIDERATION OF RESOLUTION - PROPOSED WATER QUALITY MANAGEMENT PLAN AMENDMENT FOR HAMILTON FARM GOLF CLUB, LLC, BEDMINSTER TOWNSHIP**

A proposal has been submitted that consists of a proposed amendment to the Upper Raritan WQMP and Somerset County/ Upper Raritan WMP which allows Hamilton Farm Golf Club (Block 9, Lot 1) to renovate an existing mansion to include four additional suites, a dining area, and a spa/exercise room; to expand the existing clubhouse as a restaurant, an office, a pro shop, and a locker room; to construct a new swimming pool area, pool hut, and tennis courts; to renovate the existing storage/caddy building and golf maintenance building; to connect two residential dwellings to the on-site discharge to ground water sewage treatment plan (STP); and to include beneficial reuse of all treated wastewater from the STP to be used for the purpose of golf course spray irrigation. The staff has conducted a review of the Proposed Amendment based upon the standards and policies set forth in the adopted Regional Master Plan, and completed a consistency determination regarding this project.

Ms. Swan noted that the determinations are posted and public comments have been received. Regarding this resolution, the comments received have been marked and tracked within the consistency determination. Ms. Swan reviewed the details of the application. She noted that further information has been included in the consistency determination as the applicant has provided that additional information. While these additions have been reviewed and taken into account, until they have been addressed in the application through DEP they are not included in the consistency determination. The determination is that this project is inconsistent. If the DEP adopts the revised plan, some of the inconsistencies will be addressed.

The Chairman emphasized that even with the revised plan, this project is inconsistent. Ms. Carluccio asked that if the project will still be inconsistent, she believes it should be stated clearly in the last paragraph that the revised plan will not properly address all inconsistencies (it will still be inconsistent).

*Mr. Cogger moved resolution with Ms. Carluccio's amendment added. Ms. Carluccio seconded it.*

Mr. Alstedne stated that he struggles with the economic situation within New Jersey and that some of these projects will stimulate the local economy as well as provide local jobs. He asked how far do these projects need to go to comply. He asked if guidance will be provided regarding how projects can become consistent. Ms. Swan stated that the staff has no ability to do anything other than the consistency determination. Mr. Cogger stated that it is the responsibility of the applicant to meet all of the necessary requirements. Ms. Swan reviewed that there is the mapping tool to help provide information, but the role of the staff is simply to provide an inconsistent or consistent determination. Mr. Alstede asked if the applicant can come to the Council's staff and discuss what they need to do to be consistent. Mr. Cogger made the example that it is similar to coming before a planning board – it is incumbent on the applicant to be consistent. Mr. Alstede expressed concerns regarding individuals with inconsistencies. Ms. Swan stated that the staff does help individuals through phone calls and meetings to try to be an agency that is responsive and responsible as much as possible. Mr. Alstede stated that there is a responsibility to fulfill all of the goals of the Act – including those regarding the economy, job market, etc. He asked the Council to look at the big picture.

## **PUBLIC COMMENT:**

**Wilma Frey, NJ Conservation Foundation:** She stated that there are many inconsistencies that do not appear to be addressed by the revisions. It is not specifically stated or clear that the project would still be inconsistent.

**David Shope:** He stated that he would like to know what this application costs the applicant, as this is adding another layer of work. He stated that when an applicant comes before a planning board, they not only pay for their own consultant, but need to pay the town as well. The costs of bringing these matters before the Council should be discussed and reviewed. Adding this layer has made the process more expensive and cumbersome.

The Chair closed Public Comment on this issue.

*Ms. Calabrese, Ms. Way, Mr. Dillingham, Ms. Pasquarelli, and Mr. Schrier were absent. Mr. Alstede abstained. All other members present voted to approve. The resolution was APPROVED. It was verified that the members on the phone voted in favor.*

## **GENERAL PUBLIC COMMENT:**

**Sylvia Kovacs:** She thanked both Ms. Swan and Mr. Borden for coming out to meet with her local government. There were many questions and the responses were specific and appropriate. There was much discussion after the meeting. She thanked them again for addressing the questions within her township so appropriately.

**David Shope:** He discussed the effects of nitrates within water. He reviewed peer studies regarding this subject. The numbers that they have mentioned are not consistent with those of the RMP. The MCL of 10mg/L was discussed, particularly in regards to infant health. There was no conclusive proof of the danger of nitrates at this level within the United States. He discussed the recharge level within the Highlands and how the numbers within the RMP are not based on facts. He believes that there are no issues regarding water availability and high demand. Mr. Shope discussed interbasin transfers within the Highlands area and associated the region as a water colony. He stated that the regulations are all politically based.

**Helen Heinrich, NJ Farm Bureau** – Regarding the new law on Forest Stewardship, there is much confusion about this within the Farm Bureau, particularly regarding the credibility of applicants (involving stewardship). The ability for people to receive farmland assessment and be excused from the income requirements is contradictory to what another Senator is working on currently. She noted that there is supposed to be money in the 2008 Farm Bill for Healthy Forests and that the EQUIP Program also includes money for forest stewardship. She stated appreciation regarding the email notices, but stated that she has not received notices about new standards and asked if these could be included as well. She stated that she wants to look back at her notes regarding what she stated at the last meeting, as she believes that the minutes did not properly capture her comments.

**Ross Kushner, Pequannock River Coalition:** He stated that he is here to request the assistance of the Highlands Council. He spoke about the problem with flow within the Pequannock River. The DEP even noted in 2007 that it is over allocated – particularly to Newark. He stated that

Newark is now negotiating with 2 new water customers – Pequannock and Kinnelon. Pequannock has a history of causing a sodium issue within the water. They are looking to purchase water to dilute the water supply instead of properly addressing the problem. In Fasin Lakes water company in Kinnelon, they have out built their water supply. They are looking to purchase water from Newark as well instead of seeking other alternatives because of cost. He stated that this is a large issue that needs to be addressed by the Highlands Council. He asked for the help of the Highlands staff as this is a major issue. Chairman Weingart stated that the staff would respond.

Mr. Alstede stated that there should be an economic review within the Consistency Review. He read from the RMP regarding the importance of sustainable economic development and stated that an economic review should also be completed. Ms. Swan stated that the WQMP consistency determination procedures will be posted and that would be the appropriate time if the Council would like to consider adding elements. However, these determinations are advisory to the DEP and she cannot say how an economic review will be taken into account by the DEP.

Ms. Carluccio stated that this should not be added as it is not part of the Water Quality Management review process. It is not appropriate for a WQMP amendment and will take up valuable time of the staff. Much time has been spent developing this review sheet so that it encompasses all of the relevant standards. Mr. Alstede stated that these components of the plan should be part of the review – if not within the consistency review, then where. The sustainable economic development aspect should be looked into. Ms. Swan stated that these issues are looked into while redevelopment areas are considered and certainly within conformance. There are other elements of the plan not involved in the WQMP process, which is advisory to the DEP, but there are situations where sustainability programs will be reviewed.

Mr. Alstede stated his concern that there is a blind eye to some of the aspects of the plan – these are goals the legislature found to be important. Chairman Weingart stated that most developments that are proposed that will need approval will lead to some type of economic development. Within the review, what areas are not consistent and how they could be consistent is laid out within the determination. Mr. Peterson stated that Mr. Alstede makes a good point – it is important that all components of the Plan be taken into consideration. The economic component shouldn't be ignored. Perhaps some flexibility could be allowed when there are minor inconsistencies, and an economic review should be included. Mr. Cogger stated that if you want to include an economic review that is fine, but to say that one component outweighs another component, is a dangerous move. The question is – is it consistent or inconsistent.

Mr. Peterson stated that it should be noted if a project is consistent with the economic component of the plan – this would be review of all components of the RMP. He doesn't believe that one component should outweigh another either. Ms. Carluccio stated that she disagrees as there are no standards for these components. There are very strict standards regarding these environmental components – there are no standards regarding economic standards. She stated that a series of standards would need to be laid out first. It is not appropriate to include these in the WQMP reviews. There was further discussion on whether the economic component should be included within the consistency reviews and in what capacity.

Chairman Weingart stated that the issue is really whether the economic component should be addressed within these consistency determinations. Ms. Letts spoke about how municipalities issue variances within situations where there are some inconsistencies. Ms. Swan stated that there are

adjustments and waivers so there is a process for some flexibility similar to what Ms Letts describes. Ms. Swan explained that these wastewater management plans are going to be addressed at a county level. This process will be changing anyway – individual projects should no longer be reviewed. She explained that the Plan is about which areas are available for further development while protecting the natural resources. Mr. Alstede asked when the Council will have the opportunity to plan. In a situation like this where a project could have many beneficial aspects, when can the Council move a project like this forward. Ms. Carluccio stated that projects like this shouldn't be moved forward at the expense of the environment. While the economic component is important, when a project is inconsistent, then it is inappropriate.

Chairman Weingart noted that this discussion will be continued in the future. He reminded that the Council to fill out the conflict of interest form and announced that the next meeting was on December 18<sup>th</sup> at 10 a.m. He congratulated Mr. Peterson on the birth of his fourth child and on his re-election to the Board of Freeholders.

Mr. Weingart made a motion to adjourn. Ms. Letts seconded it. The meeting was adjourned.

### CERTIFICATION

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

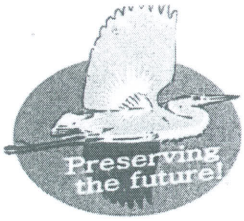
DATE: 12/22/08

NAME: Paula M. Dees  
Paula M. Dees, Executive Assistant to Eileen Swan

#### Vote on the Approval of these Minutes

	<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 Dillingham						✓
Councilmember Kovach		✓	✓			
Councilmember Letts			✓			
Councilmember Pasquarelli					✓	
Councilmember Peterson						✓
Councilmember Schrier	✓		✓			
Councilmember Vetrano			✓			
Councilmember Way					✓	
Councilmember Whitenack			✓			
Councilmember Weingart			✓			

**PUBLIC COMMENTS SUBMITTED**



# Pequannock River Coalition

P.O. Box 392, Newfoundland, NJ 07435 (973)492-3212

[www.pequannockriver.org](http://www.pequannockriver.org)

November 20, 2008

Comments submitted at Highlands Council Meeting  
on November 20, 2008 by Ross Kushner.  
Page 1 of 6.

New Jersey Highlands Council  
100 North Road  
Chester, NJ 07930

To the Highlands Council:

Designated as "Critical Treasure" by the Highlands Coalition, the Pequannock River is a cornerstone of the Highlands Preservation Area, significant as a source of potable water, as wildlife habitat, and as a recreational resource. Recognition of these values predates the Highlands Act. Most sections of the Pequannock River and most river tributaries are classified as Category 1, earning strict and specific water quality protections under the New Jersey Surface Water Quality Standards.

In recent years concern has grown over elevated water temperatures in the Pequannock River. These high water temperatures triggered a substantial fish kill in 1994 and a less-severe kill in 2002. The Pequannock River Coalition initiated a temperature monitoring program in 1994 to determine the sources and extent of these problems and collect baseline data. We were licensed as a laboratory for this work in 2001. Based on data we submitted in 2001 and 2003 several portions of the Pequannock River and several Pequannock River tributaries were listed as "impaired" for temperature in the 2002 and 2004 NJDEP Integrated Lists.

Subsequent exhaustive study by the NJDEP identified lack of sufficient river flow as the cause of more than 70% of the river's temperature problems, since insufficient water releases from Newark-owned reservoirs result in severely degraded flows. Each summer, flow rates on the Pequannock River below Newark's reservoirs fall to very low rates; often to a zero rate. We must consider that the Wanaque River below Wanaque Reservoir enjoys a flow rate in summer of 12 million gallons per day and the Rockaway River below the Jersey City Reservoir runs at 7 million gallons per day. Clearly, the situation on the Pequannock is extraordinary.

In August of 2004 the NJDEP issued new permit requirements for the City of Newark in their diversion permit for the Pequannock River, including requirements for minimum river flows. These permit conditions were immediately challenged by the City of Newark. Negotiations between the NJDEP and the City have dragged on ever since. It has now been more than 4 years since this modified permit was released, with no improvement in river flows and no enforcement of the new permit conditions.

In 2007 the NJDEP finally acknowledged that the Pequannock system had been over-allocated, meaning there is not enough water in the Pequannock reservoir system to supply the full water diversion that Newark is allowed to take from the Pequannock by permit. Fortunately, they also reported that Newark does not presently use its full allocation. While the excess water between the amount Newark actually uses and the amount the Pequannock is capable of supplying cannot to supply the full 12 cubic feet per second river flow required under the modified permit, there is enough water for a more modest 3-4 cubic foot per second flow.

Now, even this small amount of water may be lost. In recent press it was revealed that Newark has been discussing deals with two new water customers— Pequannock Township and the Borough of Kinnelon. In Pequannock Township, water from the Pequannock River system would be used by the Township to dilute their public well water and reduce high sodium levels in that supply. In Kinnelon, the problem is the poor yield of wells supplying the Fayson Lakes Water Company that has caused some outdoor water use restrictions.

First and foremost, this answers the question on Newark having sufficient water to improve conditions on the lower Pequannock. If they have extra water to sell, then they have enough to enhance flows on the river.

In addition, we must question if the needs of these communities should take precedence over the needs of the river. In both cases the towns have alternatives. For Pequannock Township, the primary goal should be to address the source of sodium contamination. This is almost certainly runoff from salt-laden roads. In Kinnelon, ample water is available from the local Butler Reservoir, although it would require expansion of the delivery system. Also, the extra water there

is only necessary to lift restrictions on outdoor water use. That is hardly an emergency. At a minimum a moratorium should be imposed in Kinnelon on all new construction in the area served by the Fayson Lakes Water Company. That has yet to occur.

In both instances the fact that it is easier or cheaper to use Pequannock River water should not outweigh the basic needs of the river. Newark should not profit at the expense of the river. But if these deals are finalized, the fate of the Pequannock may be sealed. It's time the Pequannock's ecological health took priority. If Newark has water to sell, they have enough to do what is right for the Pequannock.

An issue of this scope and complexity cries out for the intervention of the Highlands Council. Indeed, this is the kind of concern for which the Council was formed. We trust that the Council will take this on.

We thank the Council for considering this information and look forward to working with in resolving this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ross Kushner".

Ross Kushner  
Executive Director

## Newark water sought

*Suburban Trends*

*Sunday, November 2, 2008*

*By Deborah Walsh*

*Staff Writer*

Borough officials had preliminary talks with Newark about the possibility of Newark supplying the borough with water.

At last month's Borough council meeting, Councilman Evan Swalling said the borough is looking into the possibility of connecting to Newark's water supply in the vicinity of Kosco Harley-Davidson at the corner of Route 23 South and Cutlass Road. As part of the talks, there was some discussion about erecting another water tank off of Denise Drive, he indicated.

Last week, Mayor Glenn Sisco said the Newark viaduct could be accessed by Cutlass Road at Route 23. Though a substantial amount of work would take place in order to cut into Newark's line, not a lot of infrastructure work would be needed because the Borough's water line already serves Caitlin Court off of Cutlass Road.

Mayor Sisco said one of the main reasons for exploring Newark as a water source is to provide a greater feed to the Fayson Lakes Water Company (FLWC) which serves 890 customers in Kinnelon. Despite the end of summer, a peak usage season, customers of FLWC are still under some modified water usage restrictions because of reduction in well production.

Currently FLWC buys a lot of water from Kinnelon and Butler systems, but the quantity of its purchase was apparently over taxing the municipal systems. Sisco said Newark would be able to provide FLWC with a lot more water than Butler and the feed would be very positive, he said.

The City of Newark owns and operates the Pequannock Water System, which includes five reservoirs on the Pequannock River and its tributaries in Morris, Passaic, and Sussex counties. The reservoirs in the Pequannock have a total usable storage of 14 billion gallons. The City of Newark is also connected with the North Jersey District Water Supply, which has two reservoirs along the Wanaque River. These reservoirs provide approximately 37 billion gallons of storage.

Although the production level of one of its primary wells that suffered a significant drop in production had increased when the lake's level rose, Jeff Kalajian, vice president of FLWC, said the well was still only at about two-thirds of the capacity it had been at a year ago.

Kalajian said FLWC felt it was prudent to keep its customers at a Level 2 (odd/even day) restriction schedule because the well production never bounced back fully. In the summer, the customers were under the more stringent Level 3 restrictions, which ban outdoor water usage.

Back in July FLWC treasurer John Cannie said it is believed that responsibility for the drop in output rested with Morris County's bridge/culvert project outside the FLWC's building at 160 Boonton Ave., in addition to the state-mandated dam upgrade on Fayson Lakes' South Lake

Dam behind FLWC. The mandated upgrade required the lake to be lowered.

In July, Cannie said one of FLWC's primary wells dropped from 160 gallons per minute (GPM) to 70 GPM, but was back up to 90 GPM, which still represented a significant output reduction.

"Our well field was affected by the road and dam projects. The construction work was mandated. The capacity of our primary well was cut significantly," said Cannie. "We hope when we get the lake filled back up, more water will enter the well system."

Cannie said FLWC had a well team come in and work on the well because it was thought that the well's screen might have become clogged because of all the construction work. That work did not yield the level of success that was hoped for, he said.

Cannie said FLWC had to resort to a Level 3 restriction because it could not continue to obtain water from Kinnelon and Butler's water systems at a rate it was receiving water. The substantial amount it was receiving was over taxing the municipal systems.

Level 1 is the least restrictive and Level 4 is the most restrictive. Level 1 asks for voluntary compliance of odd and even day outdoor water usage corresponding with odd and even house numbers. Level 2 institutes mandatory odd-even outdoor water usage. Level 3 bans all outdoor water usage, except for those who have installed sod and those who can prove they are obtaining water from a stream. Level 4 imposes indoor usage restrictions as well as the outdoor restrictions.

Cannie indicated that FLWC has gone to great lengths to ensure that customers have adequate water in their homes. FLWC even stationed a water truck in the Stonybrook Highlands neighborhood, which historically has had more serious water problems when there is a drought or water system problems.

"We had a tanker truck in the Highlands. We have gone to extraordinary lengths to serve our clients. We take our responsibility to provide water very seriously," he said.

Cannie said there is enough water at Butler Reservoir to supply FLWC. The problem lies in the distribution system, which is designed to supply water at a certain capacity. Butler processes the water and pumps it to Kinnelon and Kinnelon pumps it to FLWC. Kinnelon's connection with FLWC is at Denise Drive, he said.

Cannie said FLWC thought it was in good shape with a new well fairly recently dug and significant capital improvements made to the distribution system. The company is served by four wells and there is still a plan to dig another well.

# Water upgrades could cost plenty

BY STEVE JANOSKI  
Staff Writer

A new study has concluded that the water that township residents drink may not be as safe as was previously thought. The Township Council must move to correct the problem in order to bring certain chemical levels down to that deemed "safe" by the NJ Department of Environmental Protection (DEP).

The improvements to the system will end up costing the township up to \$1.9 million, and will involve in the construction of not only a "blending facility", but possibly a 110-foot-high water tank.

Michael Simone of Crew Engineering in Butler conducted the study, and presented it to the Town Council at its meeting on Tuesday, Sept. 23.

Simone found that although municipal water meets all of the DEP's primary drinking water standards in regards to chemicals such as lead and mercury, it did not meet the secondary standards concerning two elements - sodium and calcium.

Specifically, water coming from the well on West Parkway consistently tested high for the two substances.

Simone stated that DEP upper limits for sodium are set at 50 parts per million (ppm). The township's water supply regularly exceeds this, coming in at nearly twice the limit at 95 ppm.

He also said that the calcium in the water comes in at about 300 ppm. DEP standards allow for no more than 250 ppm.

Simone reported that there is no immediate health threat because of the high levels.

"The sodium is naturally occurring, and a result of either runoff or heavy salting in the winter. It can affect those with high blood pressure who are on sodium-restricted diets, but for most people there is no immediate concern," said Simone.

The high calcium levels have caused a condition known as "hard water." Simone said that this is common in the area and that residents may notice it takes more soap or detergent to clean things like bathrooms that are in regular contact with the water.

He also stated that calcium buildups on plumbing are another effect of hard water.

The township currently receives its water from three wells in the north end of town - one on Dunn Place, one on Ridge Road and another at West Parkway. During peak demand times, water is also drawn from the Newark Aqueduct for use in town.

## Possible solutions

Simone stated that the council had charged his company with finding the safest and cheapest way to address the problem and so Crew Engineering explored several possible remedies.

Drilling more wells was one possibility, said Simone, except there would be no guarantee that the water found in the new wells would be any different from that in the old ones.

Another option was to treat the water in high-pressure filters through a process known as "reverse osmosis and chemical stripping."

However, this would leave the township with sterilized water while creating more than 100,000 gallons a day of wastewater that would need disposal. This, Simone said, was not a good plan because of the tremendous expense that disposal would entail.

Simone also said that the com-

pany investigated using the water from the Newark Aqueduct to supply Pequannock; however, this water is three to four times as expensive as well water and would also cost the township a tremendous amount of money.

What Simone proposed was to build a blending station in the township where the well water that is high in sodium and calcium can be mixed with safer water from the Newark Aqueduct, thus leaving the township with water that meets all DEP standards.

"This will provide flexibility in the amount of Newark water used and will take care of the exceedances. Plus, the maintenance is cheaper than with any of the other solutions," said Simone.

Simone said that the DEP has approved the concept for the plan already.

## New facilities

To explain the new facilities, which would be a one-story masonry building, Mittiga proposed the building of a new water storage tank where water would be kept in reserve to meet needs during high demand times.

Mittiga said that though the water tank in Greenview Park is still working, a new tank would hold more water, thus lessening the demand on the aqueduct.

He suggested building a 110-foot high tower on ground in a remote part of Foodhills Park near Interstate 287, saying that though it will be very visible, it would require far less piping because of its close proximity to the blending center itself, which would be located on West Parkway.

Another option for the water tank would be to locate it in neighboring Riverdale, which has a natural elevation rise of about 140 feet. This tank would, at its highest point, be below the tree line, making it much less visible than its towering counterpart.

However, piping to the facility would cost twice as much. The township would also be forced to deal with not only the borough of Riverdale, but also the landowner, for building and maintenance purposes. Mittiga said that the instrumentation on the facilities would be able to continuously track the water quality from the blending facility.

"This will eliminate the exceedances, minimize the aqueduct water by only bringing in what's needed," said Mittiga.

He added that the controls would be set up in such a way that if DEP requirements were to change in the future, the mixing formula could easily be changed to allow more or less water from the aqueduct.

Councilman Ed Engelbart later asked Simone which tank he would recommend, he replied that in his view, the raised tower was the best.

"You'll be able to retain total control with an elevated tank," said Mittiga, adding that the council would know better than he would how Riverdale might react to having a Pequannock tank within its community.

Costs

The cost of the blending facility would be about \$1.1 million, said Mittiga. The cost of the water tank would vary depending on the type chosen. The elevated tank is more costly at \$2.8 million while the ground tank is \$2.2 million.

Simone estimated that the design time for the project would

be six to eight months, while construction would probably begin a few months after, allowing time for permits. The project would then take about a year to complete.

Councilman Joe Jorgensen asked Simone how much aqueduct water would be required for the project.

Simone replied that about 70 percent would be needed when the West Parkway well was running during peak operation times; otherwise, they would use about 15 to 20 percent.

This would cost the township

about \$60,000 annually in higher water prices, although Simone said that the municipality would still be saving money compared to the expense of buying all of its water from Newark.

Jorgensen said that the council would mull over costs and impacts before deciding which type of storage tank to erect.

"We'll have to weigh the two... there's benefits to each," said Jorgensen.

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