

RESOLUTION 2016-8
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
SUPPORT FOR A WATER USER FEE AS A DEDICATED SOURCE OF FUNDING
FOR LAND CONSERVATION

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

WHEREAS, the Highlands Act designated and established an 860,000 acre region of New Jersey as a regional planning, land use, and water management area subject to stringent land use controls in order to protect “an essential source of drinking water, providing clean and plentiful drinking water for one-half of the State’s population, including communities beyond the New Jersey Highlands”; and

WHEREAS, the State Legislature recognized that implementation of the strict land use controls imposed by the Highlands Act would inevitably have an impact on landowner expectations regarding future land use potential and recognized the need to provide just compensation to the owners of lands affected by the Highlands Act; and

WHEREAS, at the time the State Legislature considered passage of the Highlands Act, and conducted public hearings to generate support for the legislation, proponents promised to provide funding for compensation to landowners adversely impacted by land use restrictions imposed by the Highlands Act, but the State Legislature has failed to fulfil those promises; and

WHEREAS, the State Legislature declared its intent that the land use restrictions resulting from passage of the Highlands Act should be accompanied, as a matter of public policy and “fairness to property owners,” by a strong commitment by the State to fund the acquisition of open space and to attempt to compensate landowners for lost development potential; and

WHEREAS, the Highlands Act provides several mechanisms that seek to mitigate negative impacts on property owners, including, but not limited to, State funding for land acquisition, and a transfer of development rights (“TDR”) program; and

WHEREAS, the voluntary nature and other uncertainties relating to the effective implementation of the TDR program and the limited funding available thus far for acquisition of lands in the Highlands region raise doubt whether the stated legislative goal of “fairness to property owners” in the administration of the Highlands Act has been achieved; and

WHEREAS, one of the principal reasons the State Legislature adopted the Highlands Act was in recognition that the Highlands region serves as an “essential source of drinking water, providing clean and plentiful drinking water for one-half of the State's population” (now 70 percent); and

WHEREAS, while implementation of the Highlands Act burdens some property owners within the Highlands region, it benefits water users who do not reside in the Highlands region; and

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WHEREAS, in 2011 the Highlands region supplied 136 billion gallons of water or approximately one-third of the total potable water used in the State; and that Highlands water was distributed to 332 municipalities in 16 counties; and that these municipalities are home to 70 percent of the State's population; and

WHEREAS, the total cost of implementing the Highlands Regional Master Plan's land preservation program, recognizing the use of the dual appraisal valuation, is approximately \$1.3 billion; and

WHEREAS, it is appropriate that the cost burden of implementing the Highlands Act be shared amongst all beneficiaries, including by users of water derived from Highlands region sources through imposition of an appropriate water user fee; and

WHEREAS, the equitable distribution of the benefits and burdens of the implementation of the Highlands Act requires that all beneficiaries, including water users, share in the cost of implementing the Highlands Act, and that a water user fee would provide an equitable means by which to share these benefits and burdens; and

WHEREAS, the Highlands Council is an advocate for the establishment of dedicated sources of funding for the preservation and stewardship of open space lands in the Highlands region, including enactment of a water user fee; and

WHEREAS, the Highlands Council has attempted to achieve fairness to property owners by adopting in 2016 a program by rule to purchase development potential from landowners (HDC Purchase Program) and an Open Space Matching Grant Program for the purchase of land in the Highlands region, and interest in the HDC Purchase Program has far exceeded the available funds to purchase such development credits; and

WHEREAS, the Highlands Council has over many years expressed its support, by Resolutions 2005-18, 2006-22, 2008-13, and 2013-10, for a dedicated source of State funding for land preservation and to address landowner equity issues, including the enactment of a water user fee; and

WHEREAS, the Highlands Council shares the conviction of the many individuals and representatives of groups who have repeatedly testified before the Highlands Council that there needs to be a dedicated, directed, and stable funding source sufficient to preserve and steward the lands protected by the Highlands Act.

NOW, THEREFORE, BE IT RESOLVED

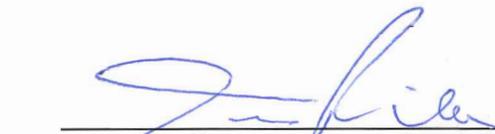
1. The Highlands Council hereby supports efforts to enact a water user fee imposed on water purveyors, at a rate of 0.1 cent per gallon, who derive water from Highlands region sources and to dedicate funds raised by such fee to assist in compensating landowners in the Highlands region whose future land use expectations have been impacted by the Highlands Act; and

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2. The Highlands Council recommends that any such efforts to enact a water user fee include a review of the property owners' lost value due to the passage of the Highlands Act to ensure the provision of just compensation in accordance with the goals of the Highlands Act, and that a means of distribution of funds to affected landowners be developed; and
3. The Highlands Council recommends that any water user fee sunset in ten (10) years after its enactment; and
4. That a copy of this resolution be sent to the New Jersey Governor and Legislature in support of these initiatives.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 20th day of October 2016.



 Jim Rilee, Chairman



**Vote on the Approval of
This Resolution**

	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede	_____	_____	✓	_____	_____	_____
Councilmember Carluccio	_____	_____	_____	✓	_____	_____
Councilmember Dougherty	_____	_____	_____	_____	_____	✓
Councilmember Dressler	_____	✓	✓	_____	_____	_____
Councilmember Francis	_____	_____	✓	_____	_____	_____
Councilmember Holtaway	_____	_____	✓	_____	_____	_____
Councilmember James	_____	_____	_____	_____	✓	_____
Councilmember Richko	_____	_____	_____	✓	_____	_____
Councilmember Sebetich	_____	_____	_____	_____	_____	✓
Councilmember Tfrank	_____	_____	_____	_____	_____	✓
Councilmember Visioli	_____	_____	✓	_____	_____	_____
Councilmember Vohden	_____	_____	✓	_____	_____	_____
Councilmember Walton	✓	_____	✓	_____	_____	_____
Chairman Rilee	_____	_____	✓	_____	_____	_____