

NEW JERSEY MEADOWLANDS COMMISSION
AGENDA

DATE: May 28, 2008
TIME: 10:00 a.m.
PLACE: Lyndhurst, New Jersey
RE: MONTHLY MEETING

1. Pledge of Allegiance
2. Sunshine Law Statement
3. Roll Call
4. REVIEW OF MINUTES - April 23, 2008 Monthly Meeting Pg. 1
May 7, 2008 Special Meeting Pg. 7
5. PUBLIC PARTICIPATION ON RESOLUTIONS
6. BANKING SERVICES

Resolution No. 08-44 Consideration of a Resolution Authorizing Pg. 10
The Executive Director To Enter Into an
Agreement for Banking Services.
7. AFFORDABLE HOUSING

Resolution No. 08-45 Consideration of a Resolution Authorizing Pg. 13
Affordable Housing Assistance to
Meadowlands Municipalities.

Resolution No. 08-46 Consideration of a Resolution Concerning Pg. 17
Affordable Housing Amendments and
Interim Policies
8. BROWNFIELD ASSESSMENTS

Resolution No. 08-47 Consideration of a Resolution Authorizing Pg. 35
The Executive Director To Enter Into an
Agreement for Environmental Engineering
Services to Perform Brownfield Assessments.

NEW JERSEY MEADOWLANDS COMMISSON
AGENDA

MONTHLY MEETING

Pg. 2

9. FLOOD CONTROL

Resolution No. 08-48 Consideration of a Resolution Authorizing Pg. 38
The Executive Director To Enter Into a
Memorandum of Agreement with Bergen
County To Support the Restoration of the
Rutherford/East Rutherford Drainage
Ditch System Project.

Resolution No. 08-49 Consideration of a Resolution Authorizing Pg. 41
The Executive Director to Enter Into an
Agreement for the Immediate Repair of the
Moonachie Creek Levee Breach By
Transcontinental Gas Pipeline Corp.,
withdrawal of the Associated Notice of
Violation, and Design and Construction of
Permanent Tide Gate System.

10. SITE SUITABILITY RECOMMENDATION

Resolution No. 08-50 Consideration of a Resolution Concerning a Pg. 44
Site Suitability Recommendation for An
Addition to 49 Industrial Avenue (Scientific
Design-Additions, Block 108.03, Lot 6, Borough
Of Little Ferry).

11. MUNICIPAL CO-OP PROGRAM

Resolution No. 08-51 Consideration of a Resolution Authorizing Pg. 49
The Executive Director To Allocate \$80,000
For the Purchase of Equipment.

NEW JERSEY MEADOWLANDS COMMISSON
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MONTHLY MEETING

Pg. 3

12. KEEGAN LANDFILL

Resolution No. 08-52 Consideration of a Resolution Pg. 52
 Authorizing the Executive Director
 To Enter Into a Contract for the
 Operation, Management and
 Maintenance for the NJMC Keegan
 Landfill.

13. REPORTS

- A. Commissioners
- B. Executive Director
- C. Director
- D. HMMC Executive Director

14. NEW BUSINESS

15. PUBLIC PARTICIPATION

16. CLOSED SESSION

- A. Adopt Resolution No. 08-53 to hold Closed Session. Pg. 55
- B. Adjournment to Closed Session. The Commission Reserves the
Right to Reconvene into Public Session, if necessary, to take Action
on Closed Session Items.

PLEASE CONTACT THE NJMC OFFICE (201-460-1700) PRIOR TO
MEETING IF SPECIAL REQUIREMENTS ARE NEEDED UNDER ADA

NEW JERSEY MEADOWLANDS COMMISSION

DATE: April 23, 2008
TIME: 10:00 a.m.
PLACE: Lyndhurst, NJ
RE: MONTHLY MEETING MINUTES

COMMISSIONERS PRESENT:

Joseph V. Doria, Jr., Chairman
James A. Anzevino
Michael J. Gonnelli
Leonard R. Kaiser
Eleanore S. Nissley
Arleen Walther

STAFF PRESENT:

Robert R. Ceberio, Executive Director
Irfan Bora, Director of Finance & Management/
Chief Financial Officer
Thomas Marturano, Director of Natural Resources
Ileana Kafrouni, Director Land Use Management
Sara Sundell, Director Land Use Management
Christine A. Sanz, Director of Legal Affairs/Chief Counsel
Francisco Artigas, Director of MERI
Christine Piatek, Deputy Attorney General
Fred J. Dressel, HMMC
Lynn Johnson, Executive Assistant

1. Pledge of Allegiance
2. Executive Director Ceberio read the Notice of Meeting required under the Sunshine Law.
3. Roll Call
4. REVIEW OF MINUTES

Minutes of the March 26, 2008 open meeting were moved by Commissioner Kaiser, seconded by Commissioner Nissley and unanimously carried.

5. PUBLIC PARTICIPATION ON RESOLUTIONS

- Hugh Carola, spoke on Resolution 08-37
- Michael Guarino, Lyndhurst resident spoke on Resolution 08-40
- Kevin Walsh, Fair Share Housing Center, spoke on Resolutions 08-30 and 08-32
- John Fiorilla, Alan Fox of Capehart & Scatchard, represented Norfolk Southern spoke on Resolution 08-30
- Susan Gruel of Heyer Gruel, spoke on Resolution 08-30
- Craig Lewis, Vice President with Norfolk Southern Railroad spoke on Resolution 08-30
- Robert Siik of Norfolk Southern Intermodal Dept in Terminal Planning spoke on Resolution 08-30.
- Malcolm Roop, Senior Real Estate Manager in the Philadelphia office for Norfolk Southern spoke on Resolution 08-30.
- Susan Gruel, Licensed Planner of Heyer Gruel spoke on Resolution 08-30
- Alan Fox, attorney with Capehart & Scatchard representing Norfolk Southern spoke on Resolution 08-30.

6. NJMC ANNUAL AUDIT

Resolution No. 08-28 - Resolution accepting the NJMC 2007 Audit Report.

Motion to adopt the resolution was made by Commissioner Kaiser, seconded by Commissioner Walther and unanimously carried.

7. SECURITY AND MONITORING DEVICE

Resolution No. 08-29 - Resolution authorizing the Executive Director to enter into a contract to install security monitoring devices in the Science Center and Observatory buildings.

Motion to adopt the resolution was made by Commissioner Nissley, seconded by Commissioner Gonnelli and unanimously carried.

8. INTERMODAL PROPERTIES REZONING

Resolution No. 08-30 - Resolution authorizing the publication of a Notice of Adoption and the rezoning of Block 16, Lot 5.01 in Secaucus.

Motion to adopt the resolution was made by Commissioner Kaiser, seconded by Commissioner Walther and carried with Commissioners Gonnelli and Anzevino abstaining.

9. RULEMAKING

Resolution No. 08-31 - Resolution adopting new rules at N.J.A.C. 19:4-4.23 that govern the prohibition against improper influence.

Motion to adopt the resolution was made by Commissioner Gonnelli, seconded by Commissioner Nissley and unanimously carried.

10. REDEVELOPMENT

Resolution No. 08-32 - Resolution to adopt a Second Amendment to the Secaucus Transit Village Redevelopment Plan.

Motion to adopt the resolution was made by Commissioner Kaiser, seconded by Commissioner Walther and carried with Commissioner Gonnelli abstaining.

Resolution No. 08-33 - Resolution to expand the In Need of Redevelopment Study Area along Industrial Avenue in the Borough of Teterboro.

Motion to adopt the resolution was made by Commissioner Nissley, seconded by Commissioner Kaiser and unanimously carried.

11. NJMC BUSINESS INCUBATOR

Resolution No. 08-34 - Resolution authorizing the Executive Director to accept a \$35,000 grant from the New Jersey Commission on Science and Technology and to apply for an \$85,000 grant from same for Sustainable Business Incubator Operations.

Motion to adopt the resolution was made by Commissioner Nissley, seconded by Commissioner Gonnelli and unanimously carried.

12. DOWNTOWN REVITALIZATION GRANT PROGRAM

Resolution No. 08-35 - Resolution authorizing the Executive Director to establish the Downtown Revitalization Grant Program.

Motion to adopt the resolution was made by Commissioner Walther, seconded by Commissioner Gonnelli and unanimously carried.

13. TAX SHARING

Resolution No. 08-36 - Resolution authorizing a study of the Intermunicipal Tax Sharing Formula

Motion to adopt the resolution was made by Commissioner Gonnelli, seconded by Commissioner Kaiser and unanimously carried.

14. MEADOWLANDS FESTIVAL OF BIRDING

Resolution No. 08-37 - Resolution authorizing the Executive Director to support the 2008 and 2009 Annual Meadowlands Festival of Birding.

Motion to adopt the resolution was made by Commissioner Nissley, seconded by Commissioner Kaiser and unanimously carried.

15. MUNICIPAL ASSISTANT PROGRAM

Resolution No. 08-38 - Resolution authorizing the Executive Director to provide up to \$20,000 per Meadowlands municipality to purchase a hybrid vehicle for their town fleet.

Motion to adopt the resolution was made by Commissioner Walther, seconded by Commissioner Nissley and unanimously carried.

16. SOLAR ENERGY FACILITIES

Resolution No. 08-39 - Resolution authorization the establishment of a Pilot Program to assist District Municipalities in the Development of Solar Energy Facilities.

Motion to adopt the resolution was made by Commissioner Gonnelli, seconded by Commissioner Kaiser and unanimously carried.

17. SOLID WASTE

Resolution No. 08-40 - Resolution approving an amendment to the New Jersey Meadowlands Commission Solid Waste Management Plan.

Motion to adopt the resolution was made by Commissioner Kaiser, seconded by Commissioner Gonnelli and carried with Commissioner Walther abstaining.

18. SITE SUITABILITY RECOMMENDATION

Resolution No. 08-41 - Resolution issuing a decision on the Suitability Recommendation as required by the NJMC Emergency Restraints Upon Further Development File No. 08-176, Hartz HMP/New 14-Plex Theater, Block 227, Lot 5.03 in the Town of Secaucus.

Motion to adopt the resolution was made by Commissioner Nissley, seconded by Commissioner Kaiser and carried with Commissioner Gonnelli abstaining.

19. REPORTS

Commissioner's Report

Commissioner Kaiser expressed his disappointed on the way the NJMC, Commissioners and staff are once again publicly perceived regarding the EnCap project. Specifically he spoke about a letter sent by the Mayor of North Arlington to what he assumed was all of the taxpayers misrepresenting the actions of the Commission on the current status of Encap.

Commissioner Kaiser motioned that the Executive Director be authorized to address the points that were raised in the document and to straighten out the misunderstanding or misconception regarding the EnCap development as it pertains to the Borough of North Arlington. Commissioner Gonnelli seconded the motion. Motion was carried with all in favor.

Executive Director's Report

Executive Director Ceberio reported on the Route 17 flood control project. One of the key components of the flood project is the crushed culvert under the Norfolk Southern line. The NJMC is having trouble contacting the correct person from Norfolk Southern to obtain approvals. Mr. Ceberio asked the representatives present today if they could assist in directing staff to the right person. Mr. Fiorilla of Norfolk Southern suggested that NJMC's attorney contact him.

Mr. Ceberio thanked Chairman Doria and staff with DEP Commissioner Lisa Jackson who walked the drainage ditches in Rutherford and East Rutherford. With the assistance of Commissioner Doria a tentative agreement has been made with the DEP staff regarding the requirements for mitigation issues. This will allow for the cleaning of the ditches as the Phase II part of the project.

Chairman Doria thanked DEP Commissioner and her staff for helping solve the problem as quickly as possible to relieve the flooding problems for the people living and driving in the area.

Director's Report

Christine Sanz, Director of Legal Affairs, thanked Mayor Sacco from North Bergen for his steadfast commitment to his residents and for working with the NJMC on the amendment to the Solid Waste Management Plan. This ensures the safety of the environment and the residents of North Bergen. Ms. Sanz also thanked NJMC staff.

Mayor's Committee Report

Fred Dressel, Executive Director of the HMMC, commented gratefully on the actions taken by the Commission regarding the tax sharing study, the hybrid vehicles and the flood control projects being done on Route 17.

20. PUBLIC PARTICIPATION

- Margaret Schak, Rutherford resident
- Frank DelVecchio, Rutherford resident representing Taxpayers Association
- Michael Guarino, Lyndhurst resident
- Sam Maffei, Secaucus resident

21. CLOSED SESSION

The following issues were taken into consideration: EnCap Project.

Motion to enter into closed session was made by Commissioner Nissley, seconded by Commissioner Gonnelli and unanimously carried.

ROBERT R. CEBERIO, SECRETARY

RESOLUTION#	08-28	08-29	08-30	08-31	08-32	08-33	08-34	08-35	08-36	08-37
Chairman Doria	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Comm. Anzevino	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
Comm. Gonnelli	Y	Y	A	Y	A	Y	Y	Y	Y	Y
Comm. Kaiser	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Comm. Macri	---	---	---	---	---	---	---	---	---	---
Comm. Nissley	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Comm. Walther	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

RESOLUTION#	08-38	08-39	08-40	08-41
Chairman Doria	Y	Y	Y	Y
Comm. Anzevino	Y	Y	Y	Y
Comm. Gonnelli	Y	Y	Y	A
Comm. Kaiser	Y	Y	Y	Y
Comm. Macri	---	---	---	---
Comm. Nissley	Y	Y	Y	Y
Comm. Walther	Y	Y	A	Y

Y = Yes R = Recuse
A = Abstain N = No

NEW JERSEY MEADOWLANDS COMMISSION

DATE: May 7, 2008
TIME: 10:00 a.m.
PLACE: Lyndhurst, NJ
RE: SPECIAL COMMISSION MEETING MINUTES

COMMISSIONERS PRESENT:

Joseph V. Doria, Jr., Chairman
James A. Anzevino
Michael J. Gonnelli
Leonard R. Kaiser
Eleanore S. Nissley
Arleen Walther

STAFF PRESENT:

Robert R. Ceberio, Executive Director
Irfan Bora, Director of Finance & Management/
Chief Financial Officer
Thomas Marturano, Director of Natural Resources
Ileana Kafrouni, Director Land Use Management
Sara Sundell, Director Land Use Management
Christine A. Sanz, Director of Legal Affairs/Chief Counsel
Francisco Artigas, Director of MERI
Christine Piatek, Deputy Attorney General
James Carey, Assistant Counsel to the Governor
Lynn Johnson, Executive Assistant

1. Pledge of Allegiance
2. Executive Director Ceberio read the Notice of Meeting required under the Sunshine Law.
3. Roll Call
4. CLOSED SESSION

The following issues were taken into consideration: EnCap Project.

Motion to enter into closed session was made by Commissioner Kaiser, seconded by Commissioner Gonnelli and unanimously carried

5. OPEN SESSION

Motion to open session was made by Commissioner Nissley, seconded by Commissioner Gonnelli and unanimously carried

6. PUBLIC PARTICIPATION

- Michael Guarino, Lyndhurst resident

7. ENCAP

Resolution No. 08-43 - Resolution directing the Executive Director to take certain actions regarding the Third Amended and Restated Landfill Closure and Development Agreement between the New Jersey Meadowlands Commission and EnCap Golf Holdings, LLC.

Executive Director Ceberio read for the record the last two whereas, now, therefore, be it resolved clauses of resolution 08-43.

Commissioner Kaiser requested that Executive Director Ceberio and staff prepare a concise outline of the plan as it currently exists, and that public information sessions be scheduled.

Chairman Doria stated that EnCap, and those part of EnCap, were given the opportunity to show that they had both the ability to do the remediation, and most of all the financial plan necessary to follow through on the remediation. The remediation was moving forward, but the issue was that it would take two more years. In addition, there was no financial plan to follow through on the remediation. Chairman Doria went on to say that the Commission will take on the responsibility of moving forward with the remediation.

Motion to adopt the resolution was made by Commissioner Kaiser, seconded by Commissioner Nissley and carried with Commissioners Walther and Anzevino abstaining.

Motion to adjourn was made by Commissioner Kaiser, seconded by Commissioner Nissley and unanimously carried.

ROBERT R. CEBERIO, SECRETARY

RESOLUTION#	08-43
Chairman Doria	Y
Comm. Anzevino	A
Comm. Gonnelli	Y
Comm. Kaiser	Y
Comm. Macri	---
Comm. Nissley	Y
Comm. Walther	A

Y = Yes

R = Recuse

A = Abstain

N = No

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER
INTO AN AGREEMENT FOR BANKING SERVICES**

WHEREAS, the NJMC recently issued an RFP for Banking Services; and

WHEREAS, the current 5-year contract for banking services expired at the end of April; and

WHEREAS, the NJMC received proposals from the following financial institutions:

- Bank of America
- Citibank, N.A.
- Commerce Bank
- PNC Bank
- Wachovia Bank

WHEREAS, the proposals were evaluated on a number of factors, which included the financial institution's capability and stability, training and support services for NJMC employees and the extent of core banking services. Additional factors included banking services fees and interest earnings on deposits; and

WHEREAS, Commerce Bank provided the proposal most advantageous to the NJMC; and

WHEREAS, Commerce Bank has agreed to provide all banking services at no cost to the Commission. It has also agreed to provide competitive rates on all NJMC deposits pegged to the 3-month Treasury Bill rate plus 40 basis points, without a minimum balance requirement.

NOW, THEREFORE BE IT RESOLVED by the New Jersey Meadowlands Commission that the Executive Director is hereby authorized to contract with Commerce Bank as the Commission's depository for a 5-year period with the option of two 3-year renewals under the same terms and conditions.

The foregoing Resolution was adopted by Commission vote.

Joseph V. Doria, Jr.
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of May 28, 2008.

Robert R. Ceberio
Secretary

Resolution No. 08-44

Memorandum



New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Irfan A. Bora Date: May 28, 2008

Subject: Banking Services

The NJMC recently issued an RFP for Banking Services because the NJMC's current 5-year contract for banking services expired at the end of April.

We were pleased to receive proposals from the following financial institutions:

- Bank of America
- Citibank, N.A.
- Commerce Bank
- PNC Bank
- Wachovia Bank

The proposals were evaluated on a number of factors, which included the financial institution's capability and stability, training and support services for NJMC employees and the extent of core banking services. Additional factors included banking services fees and interest earnings on deposits.

From our review of the proposals, we are recommending contracting with Commerce Bank as the Commission's depository for a 5-year period. The bank has agreed to provide all banking services at no cost to the Commission. It has also agreed to provide competitive rates on all our deposits pegged to the 3-month Treasury Bill rate plus 40 basis points, without a minimum balance requirement. The proposal also allows for the option of two 3-year renewals under the same terms and conditions.

**RESOLUTION AUTHORIZING AFFORDABLE HOUSING ASSISTANCE
TO MEADOWLANDS MUNICIPALITIES**

WHEREAS, the New Jersey Meadowlands Commission (NJMC) has adopted affordable housing policies that set forth policy goals to enhance the provision of affordable housing throughout the Meadowlands District (Resolution No.'s 03-85, 03-96, 06-18, 07-28, 07-68, 07-74); and

WHEREAS, the NJMC's affordable housing policies are reinforced by a strategy of the NJMC Master Plan to spur the production of affordable housing; and

WHEREAS, the NJMC has offered technical and financial assistance to the District's constituent municipalities to develop housing elements and fair share plans, petition the New Jersey Council on Affordable Housing (COAH) for substantive certification or seek a judgment of compliance from the Superior Court, and implement their fair share housing plans; and

WHEREAS, funds in the amount of \$350,000 have been reserved under the NJMC's Meadowlands Area Grants for Natural and Economic Transformation (MAGNET) Program for Meadowlands municipalities to develop housing elements and fair share plans to petition COAH or request a judgment of compliance (Resolution No. 03-96), and such funds have been expended or encumbered; and

WHEREAS, a total of \$490,000 has previously been reserved for municipalities as a second phase of funding to implement and administer fair share housing plans approved by COAH or the Court (Resolution No. 06-18); and

WHEREAS, COAH adopted revised third round rules on May 6, 2008, and these rules are scheduled to become effective on June 2, 2008; and

WHEREAS, the NJMC encourages Meadowlands municipalities to address their affordable housing obligations and develop new third round plans which are consistent with COAH's revised rules; and

NOW, THEREFORE, BE IT RESOLVED that funds in the amount of \$490,000, or \$35,000 per municipality, previously reserved under the MAGNET program as a second phase of grants to assist constituent municipalities with implementing and administering their affordable housing programs, may also be utilized by those municipalities petitioning COAH for certification or requesting

a judgment of compliance by the Superior Court, in the preparation of new housing elements and fair share plans that are consistent with COAH's revised third round rules; and

BE IT FURTHER RESOLVED that a supplementary allocation of \$140,000, or \$10,000 per municipality, from funds available under the MAGNET Program, is reserved for these purposes: and

BE IT FURTHER RESOLVED that the NJMC hereby authorizes the staff to prepare and implement guidelines by which municipalities may obtain these funds, in an amount not to exceed \$45,000 per municipality, for the purposes described herein.

The foregoing Resolution was adopted by Commission vote.

Joseph V. Doria, Jr.
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of May 28, 2008.

Robert R. Ceberio
Secretary

Resolution No. 08-45

Memorandum



New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Sara Sundell Date: May 28, 2008

Subject: Affordable Housing Assistance to Meadowlands Municipalities

Since November 2003, the New Jersey Meadowlands Commission (NJMC), in cooperation with the New Jersey Council on Affordable Housing (COAH), has supported the municipalities of the Meadowlands District in meeting their fair share housing obligations through a proactive housing policy. The cornerstone of the NJMC's housing initiative has been the availability of technical and financial assistance for the municipalities to prepare housing elements and fair share plans and to implement their affordable housing programs.

Along with technical support provided by NJMC staff, the NJMC has offered financial support in the form of grants to prepare housing elements and fair share plans under COAH's third round methodology, adopted December 20, 2004, and to petition COAH for substantive certification or seek a judgment of compliance by Superior Court. Substantive certification is a determination by COAH approving a municipality's housing element and fair share plan in accordance with the provisions of the Fair Housing Act and COAH's rules. Resolution No. 03-96, approved on December 17, 2003, provided up to \$25,000 per municipality for the work described above. Most of the Meadowlands municipalities responded by retaining planners and undertaking new housing plans, and these grant funds are either expended or encumbered. Through a second series of affordable housing assistance grants, approved by Resolution No. 06-18 on March 29, 2006, the NJMC reserved an additional \$35,000 per municipality to implement and administer their affordable housing programs upon receipt of substantive certification or a judgment of compliance.

In a decision dated January 25, 2007 (A-1960/2665/2674/2706-04T3), the Appellate Division of the New Jersey Superior Court invalidated elements of the COAH's third round rules and remanded these elements back to COAH. The Court stayed the grant of substantive certification pending the completion of rulemaking. To facilitate affordable housing production during this interim period, on July 25, 2007, the NJMC adopted Resolution No. 07-68, which amended the requirements for the second phase of housing grants that were approved by Resolution No. 06-18, in order to permit the release of the affordable housing assistance funding as reimbursement for certain costs associated with "ready to go" affordable housing projects. Resolution 07-68 allowed the grant amount of \$35,000 per municipality to be released prior to COAH or Court approval.

COAH's revised rules are scheduled to become effective upon publication in the New Jersey Register on June 2, 2008, in order to comply with the deadline mandated by the Court. Municipalities that have already petitioned COAH or made progress toward completing their plans will need to develop new housing plans to comply with the revised COAH requirements in order to remain under COAH jurisdiction.

At this time, NJMC staff is requesting authorization to amend the requirements regarding the second phase of affordable housing assistance so that municipalities may utilize the previously authorized funds to prepare new third round housing elements and fair share plans for a COAH petition or submission to the Court. Additionally, staff requests that a supplementary allocation of \$140,000, or \$10,000 per municipality, be reserved for these purposes. A resolution requesting the same is attached for your consideration.

**RESOLUTION CONCERNING AFFORDABLE HOUSING
AMENDMENTS AND INTERIM POLICIES**

WHEREAS, the New Jersey Meadowlands Commission (NJMC) is authorized by N.J.S.A. 13:17-1, *et seq.*, to adopt codes and standards regarding the zoning and rezoning of lands within the Meadowlands District; and

WHEREAS, on January 11, 2007, the NJMC adopted comprehensive new and revised rules governing affordable housing in the Meadowlands District (N.J.A.C. 19:3-6, 19:4-5.2, 8.4 and 11.1, 11.7, and 12), and subsequently filed a Notice of Adoption with the Office of Administrative Law which became effective on February 5, 2007, upon their publication in the New Jersey Register; and

WHEREAS, these rules were effectuated to promote consistency with the New Jersey Council on Affordable Housing (COAH)'s third round rules and to ensure that constituent municipalities of the Meadowlands District shall meet their affordable housing obligations that result from development occurring in the Meadowlands District; and

WHEREAS, in a decision dated January 25, 2007 (A-1960/2665/2674/2706-04T3), the Appellate Division of the New Jersey Superior Court affirmed in part, reversed in part, and remanded portions of COAH's third round rules back to COAH for rulemaking; and

WHEREAS, on March 12, 2007, the NJMC responded to this decision through the adoption of Resolution No. 07-28, which halted implementation of its regulations that became effective on February 5, 2007 until such repeal or amendment of the subject regulations shall occur; and

WHEREAS, in a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division, among other things, determined that the NJMC's planning and zoning for affordable housing should be based on the affordable housing obligations of its constituent municipalities; and

WHEREAS, on August 22, 2007, the NJMC adopted Resolution No. 07-74 which instituted guidelines entitled *Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission* (subsequently amended by Resolution No. 08-03 and Resolution No. 08-18) to govern the review of and restraints upon applications for further development in the Meadowlands District until the NJMC adopts new affordable housing regulations consistent with COAH's revised third round rules; and

WHEREAS, COAH proposed new rules in the New Jersey Register on January 22, 2008 to address the Appellate Division decision dated January 25, 2007; and

WHEREAS, on May 6, 2008, COAH adopted these rules, which shall become effective upon publication in the New Jersey Register on June 2, 2008, to comply with the deadline mandated by the court and, in addition, proposed new rules that shall be published in the New Jersey Register on June 16, 2008 and are scheduled to become effective in October 2008; and

WHEREAS, the NJMC staff recommends the Commission repeal and/or amend the NJMC's regulations adopted January 11, 2007 governing affordable housing, which are based upon elements of COAH's third round rules remanded by the Appellate Division back to COAH for rulemaking; and

WHEREAS, the NJMC staff further recommends the Commission replace the *Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission*, which are also based upon elements of COAH's third round rules remanded back to COAH for rulemaking, with a policy guiding affordable housing in a manner consistent with COAH's new rules for an interim period beginning June 2, 2008 and continuing until such repeal or amendment of the NJMC's affordable housing regulations becomes effective.

NOW, THEREFORE, BE IT RESOLVED that the New Jersey Meadowlands Commission (NJMC) hereby authorizes staff, as soon as practicable, to prepare and submit a Notice of Proposal to the Office of Administrative Law for publication in the New Jersey Register and hold a public hearing to receive input from interested parties regarding the proposed repeal and/or amendment of N.J.A.C. 19:3-6, 19:4-5.2, 8.4, 11.7 and 12 and proposed new rules governing affordable housing; and

BE IT FURTHER RESOLVED that the NJMC hereby adopts interim affordable housing policies to become effective on June 2, 2008 as follows:

1. The NJMC's policy, *Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission*, is hereby rescinded; and
2. The policy statement entitled *Interim Policies Governing Affordable Housing Development in the Meadowlands District*, attached as Exhibit A and made part of this resolution, shall govern the planning and zoning for affordable housing in the Meadowlands District until the new NJMC affordable housing regulations become effective or the

policy statement is withdrawn or rescinded by NJMC action or court order, whichever shall occur first; and

3. This interim policy statement in Exhibit A shall apply to all zoning certificate applications that have not received zoning certificate approval as of June 2, 2008 and to all zoning certificate applications received on or after June 2, 2008; and
4. The restraints upon development on Block 227, Lot 4.06 in the Town of Secaucus, resulting from the NJMC's determination in Resolution No. 07-105 that the property is suitable for residential use, are hereby dissolved, and further development of the site shall be subject to the interim policy.

The foregoing Resolution was adopted by Commission vote.

Joseph V. Doria, Jr.
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of May 28, 2008.

Robert R. Ceberio
Secretary

Resolution No. 08-46

Interim Policies Governing Affordable Housing Development in the Meadowlands District
Adopted by the NJMC at the 5/28/08 Commission meeting and effective 6/2/08

I. Intent and Purpose

On January 11, 2007, the New Jersey Meadowlands Commission (NJMC) adopted comprehensive rules governing affordable housing in the Meadowlands District. The rules, which became effective on February 5, 2007, were effectuated to ensure that municipalities are able to satisfy their affordable housing obligations in a manner consistent with the New Jersey Council on Affordable Housing (COAH)'s third round rules.

In a decision dated January 25, 2007 (A-1960/2665/2674/2706-04T3), the Appellate Division of the New Jersey Superior Court invalidated elements of COAH's third round rules upon which the NJMC's new affordable housing rules were based and remanded these elements back to COAH. In a separate decision, issued May 21, 2007, the Appellate Division affirmed that the NJMC is authorized to affirmatively plan for affordable housing in the Meadowlands District. IMO Adoption of N.J.A.C. 19:3, 393 N.J. Super. 173 (App.Div.2007).

On August 22, 2007, the NJMC responded to these court decisions by adopting Resolution No. 07-74 which instituted guidelines entitled *Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission* (subsequently amended by Resolution No. 08-03 and Resolution No. 08-18). These guidelines were implemented to govern the review of and restraints upon applications for further development in the Meadowlands District until the NJMC adopts new affordable housing regulations consistent with COAH's third round rules, as amended. COAH subsequently proposed new rules in the New Jersey Register on January 22, 2008 to address the Appellate Division decision dated January 25, 2007. At its May 6, 2008 meeting, COAH adopted these new rules and, in addition, proposed amendments to the adopted rules.

The Commission has acted to address these matters promptly following publication of COAH's amended rules (*Id.* at 179; see also, IMO Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super. 1 (App Div.) Certif. denied, _ N.J. _ (2007)). On May 23, 2008, staff received authorization to prepare and submit a Notice of Proposal to the Office of Administrative Law regarding proposed affordable housing rules which are consistent with COAH's new rules and proposed amendments. Policies are needed, however, to address an interim period beginning with the June 2, 2008 effective date of COAH's revised rules, adopted on May 6, 2008, and continuing until the NJMC's new affordable housing regulations become effective.

Accordingly, the interim policies that appear herein shall govern the planning and zoning for affordable housing in the District until the NJMC's new regulations become

effective. These policies replace the *Emergency Restraints*, which were based in part upon certain elements of COAH's rules that were invalidated by the court. The policies shall apply to all zoning certificate applications already filed with the NJMC which have not received zoning certificate approval as of June 2, 2008, and to all zoning certificate applications received by the NJMC on or after June 2, 2008. The policies shall remain in effect until the NJMC's new zoning regulations governing affordable housing become effective or these policies are withdrawn or rescinded by Commission action or court order, whichever shall occur first.

II. NJMC Policies for Interim Period

- (a) Compliance with these interim policies and all pertinent COAH requirements shall be a condition of any zoning certificate issued by NJMC with respect to applications approved by the NJMC, pursuant to N.J.A.C. 19:4-4.5, on or after June 2, 2008.
- (b) The NJMC shall not issue a certificate of completion and/or occupancy certification unless the proposed project complies with these interim policies.
- (c) These interim policies shall constitute the controlling instrument with respect to development in the District.
- (d) Zoning certificate applications for the following are exempt from these interim policies:
 1. Development limited to one (1) or two (2) market-rate dwelling units;
 2. Development by municipal, county, state, and federal government; and utilities, housing and improvement authorities; however, affordable housing development by these parties would be eligible to receive the incentives offered to other developers in Subparagraphs (e) 4 and 5.
 3. Signs, fences/gates, site improvements, tanks, antennae, transmission towers and associated utility structures, recycling and/or refuse areas, loading doors, compactor and concrete utility pads, fill/stockpile operations, salt storage areas, construction trailers, guard shacks, storage sheds with a floor area of less than 400 square feet, remediation activities, temporary uses, and external mechanical equipment.
 4. Reoccupancy of, or a change in use within, an existing non-residential structure, unless the square footage of the structure would increase.

- (e) Residential development including five (5) or more dwelling units shall provide a minimum of one affordable housing unit within the development for every four market-rate dwelling units.
1. When this calculation results in a fraction of a unit, that figure shall be rounded to the nearest hundredth decimal place. The requirement for a fractional affordable unit may be satisfied by providing one affordable unit within the development or by making a pro-rated payment in lieu of construction.
 2. A payment in lieu of construction to the Commission shall be determined and collected as follows:
 - i. The payment shall be calculated in accordance with the current per-unit subsidy established for the housing region by COAH, as amended and supplemented. The initial subsidy established by COAH is \$180,267 and may be revised by COAH periodically. The calculated obligation shall be rounded to the nearest hundredth decimal place and multiplied by the per-unit subsidy rate.
 - ii. The NJMC shall calculate and collect the payment on behalf of the constituent municipality. The NJMC shall not issue a temporary or final certificate of completion and/or occupancy certification for the development until such payment is received in full or until a guaranteed payment plan is effectuated.
 - iii. For development in a municipality that has adopted an ordinance providing for payments in lieu of constructing affordable units on site, the payment shall be calculated and collected by the municipality, and not by the NJMC. Proof of payment to the municipality shall be submitted to the NJMC prior to the issuance of any temporary or final certificate of completion and/or occupancy certification.
 3. For mixed use development, a development fee shall be required for the non-residential portion of the development in accordance with Paragraph (g).
 4. Incentives for providing affordable housing shall be available as follows:
 - i. Maximum permitted densities are established for inclusionary development, or residential development in which all units are reserved as affordable, as follows:
 - 1) In the Low Density Residential zone, the maximum permitted density shall be increased from 10 dwelling units per acre to 12 dwelling units per acre.

- 2) In the Planned Residential zone, the maximum permitted density shall be increased from 25 dwelling units per acre to 30 dwelling units per acre.
 - 3) For residential development permitted in accordance with Paragraph (i), the maximum permitted density shall be established as 30 dwelling units per acre.
 - 4) For a mixed-use development, the applicant may choose to receive the maximum residential density in the zone in which the development is located or an increase of up to 0.25 in the maximum floor area ratio permitted in the zone.
 - ii. The minimum parking requirement for affordable units shall be one space for each affordable unit. In multiple family dwelling developments, affordable units shall not be required to provide visitor parking.
5. A density bonus of three dwelling units shall be permitted for every 25 affordable units reserved for renter households, exclusive of any incentive density permitted in accordance with Subparagraph 4.
 6. The developer is encouraged to work with the subject municipality to create units available to very-low income households. COAH's rules in N.J.A.C. 5:97-8.8 authorize municipalities to utilize development fees to provide affordability assistance for very low income households.
 7. The affordable dwelling units within an inclusionary development shall be built in accordance with the phasing schedule in Table 1 below:

TABLE 1
Phasing of Affordable Housing Units

<u>Percentage of Market-rate Units Completed</u>	<u>Minimum Percentage of Low- and Moderate-Income Units Completed</u>
25	0
25 + 1 unit	10
50	50
75	75
90	100

8. The layout and design of the development shall be as follows:
 - i. Affordable housing units shall not be concentrated in one location within the development, but shall be dispersed throughout the development.

- ii. The affordable units shall be architecturally similar to the market-rate units within the development.
- iii. The first floor of all townhome dwelling units and all other multistory dwelling units shall comply with N.J.A.C. 5:97-3.14, Accessible and adaptable affordable units, provided the units are included in a municipal Fair Share Plan.
- iv. The following minimum floor area per affordable housing unit, with the exception of units provided in assisted living facilities, shall be provided:

<u>Unit Size</u>	<u>Minimum Floor Area</u>
studio	550 square feet
one bedroom	600 square feet
two bedrooms	850 square feet
three bedrooms	1,150 square feet
four bedrooms	1,250 square feet

v. At least one bedroom shall contain a minimum floor area of 150 square feet and each additional bedroom shall contain a minimum floor area of 100 square feet.

vi. The minimum sizes in iii. and iv. above exclude exterior hallways, garages, common space, and unfinished space.

(f) The administration of affordable housing units provided in accordance with these policies shall conform to the requirements of COAH's substantive rules, N.J.A.C. 5:97, and the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80, as amended and supplemented.

1. Affordable units shall utilize the same heating source as market-rate units within the inclusionary development and have access to all community amenities available to market-rate units and subsidized in whole by association fees.
2. Additional requirements include, but are not limited to, controls on affordability, regional income limits, proportion of units allocated to persons of low- or moderate-income, heating sources, maximum rent and/or sales prices, affordability average, bedroom distribution, and affirmative marketing.
3. The municipality shall be responsible for such administration, and may designate a COAH-approved entity to administer the affordable units for the duration of the required administration period.

- i. The cost and expense of such administration may be imposed upon the developer pursuant to the terms and conditions of a duly adopted municipal ordinance.
 - ii. The municipality shall enter into a contract with the designated COAH-approved entity. If the municipality has not petitioned for substantive certification or has not received a judgment of compliance, the contract shall be submitted to the NJMC for review and approval to ensure compliance with this paragraph.
 - iii. The entity shall assume the responsibilities of the administrative agent set forth by HMFA in N.J.A.C. 5:80-26.
 - iv. Funds from the sale of affordable units with extinguished affordability controls shall be deposited into the municipality's escrow account established in accordance with Paragraph (h).
- (g) Development fees to address affordable housing obligations shall be required as follows:
1. The following projects shall be subject to development fees:
 - i. New residential development limited to three (3) or four (4) market-rate dwelling units;
 - ii. New non-residential or mixed use development; and
 - iii. The addition to an existing non-residential structure.
 2. The amount of the payment shall be calculated as follows:
 - i. For new residential developments limited to three (3) or four (4) market-rate dwelling units, a fee of one and one-half (1 ½) percent of the equalized assessed value of land and improvements.
 - ii. For new non-residential developments, a fee of two and one-half (2½) percent of the equalized assessed value of land and improvements;
 - iii. For new mixed residential and non-residential developments, a fee equal to the sum of the fees determined in i. and ii. above; and
 - iv. For the addition to an existing non-residential structure, a fee of two and one-half (2½) percent of the increase in the equalized assessed value.
 3. The NJMC shall calculate and collect the fee on behalf of the constituent municipality.
 - i. The NJMC shall not issue a temporary or final certificate of completion or occupancy certification for the development until such payment is received in full or until a guaranteed payment plan is effectuated.

- ii. For development in a municipality that has an adopted development fee ordinance, a development fee shall be calculated and collected by the municipality, and not by the NJMC. Proof of payment to the municipality shall be submitted to the NJMC prior to the issuance of any certificate of completion or occupancy certification.
- (h) All development fees and payments in lieu of constructing affordable housing units on site, collected by the NJMC in accordance with these guidelines, shall be deposited in an interest-bearing escrow account established by NJMC for the municipality in which the units would have been constructed.
1. The escrow accounts shall be created pursuant to the terms of a three-party escrow agreement between each constituent municipality, the financial institution, and the NJMC.
 2. The NJMC shall include in future rulemaking provisions regarding the release of these funds to a municipality for the purpose of creating affordable housing.
 - i. Pursuant to COAH's rule in N.J.A.C. 5:97-8.13, the municipality may be subject to enforcement action by COAH for the expenditure of funds on activities not approved by COAH or other good cause demonstrating that the funds are not being used for the approved purpose.
- (i) A property owner or applicant may request that the Board of Commissioners evaluate the suitability of a particular site for housing in a zone that does not permit residential uses. The following procedure shall supersede the use variance requirements of N.J.A.C. 19:4-4.14:
1. The applicant shall provide the following information:
 - i. A complete site suitability application form, signed by the property owner and applicant;
 - ii. A site suitability application fee in the amount of \$1,500;
 - iii. A complete zoning certificate application prepared in accordance with N.J.A.C. 19:4-4.3;
 - iv. A statement of the characteristics of the subject property which demonstrates that the site is suitable for residential use. The statement shall include, but not be limited to, size, location, surrounding land uses, access to appropriate streets, adequate infrastructure, environmental factors, and sound planning principles;
 - v. A Project Impact Assessment, if applicable as per N.J.A.C. 19:4-10.2; and
 - vi. Other such information as may be deemed necessary from a specific applicant by the NJMC.

2. A public hearing on the site suitability request shall be held in accordance with N.J.A.C. 19:4-4.17.
3. A team of three (3) NJMC staff members, one of whom shall be a licensed professional planner and one of whom shall be a licensed professional engineer, ("Review Team") shall review the request and prepare a recommendation regarding the suitability of the subject property for affordable housing based upon the complete record. The Review Team may be supplemented by a licensed professional planner appointed by, and at the discretion of, the municipality in which the proposed application is located.
4. A site shall not be deemed suitable for residential use unless specific written findings of fact directly based upon the particular evidence presented are made supporting conclusions that:
 - i. The site is adjacent to compatible land uses and has access to appropriate streets;
 - ii. The site has access to water and sewer infrastructure with sufficient capacity;
 - iii. The site can be developed consistent with the rules of the NJMC;
 - iv. Former and existing land uses, either on the site or in the vicinity, may not expose residents to environmental hazard. Alternatively, the site shall be remediated to NJDEP residential standards as a condition of the Board's approval;
 - v. The size, shape, or layout of any existing structures that shall remain, or other physical limitation(s) not listed previously, do not preclude residential use; and
 - vi. The site is suitable for residential use pursuant to sound planning principles.
5. Upon conclusion of the suitability review, the recommendation of the Review Team shall be forwarded to the Hackensack Meadowlands Municipal Committee (HMMC) for their review.
6. The HMMC shall review the recommendation and indicate its position in writing to the NJMC. Failure of the HMMC to state its position within 45 days of receipt of the matter shall be deemed to constitute approval of the proposed action.
7. After HMMC action, the recommendation shall be forwarded to the Board of Commissioners for final action. The Board of Commissioners shall decide, by a concurring vote of the majority of its members, to grant or deny the site suitability request, based upon the record of the matter.

8. The decision of the Board of Commissioners shall be memorialized by a formal written resolution adopted at the meeting at which the site suitability request is decided.
 9. If the Board of Commissioners approves the request, the property owner shall comply with these interim policies and all pertinent COAH requirements.
 10. A copy of the decision of the Board of Commissioners shall be transmitted to the property owner and applicant by the NJMC via certified mail, and the NJMC shall advise the applicant of its right to appeal said decision as a final action of the Board of Commissioners in accordance with N.J.A.C. 19:4-4.19(e).
 11. No person shall contact or attempt to contact any member of the Board of Commissioners or the NJMC staff regarding a site suitability application to discuss an impending decision on the subject application after the close of the public record.
 12. The approval of a site suitability decision shall become null and void five years after the date on which the approval is issued, unless within such period a zoning certificate is obtained.
 13. No extensions of approval of the site suitability decision shall be granted.
- (j) A municipality shall submit copies of documents regarding its affordable housing programs and policies as follows:
1. A copy of its adopted Housing Element and Fair Share Plan, including any amendments, shall be submitted to the NJMC by the municipality at the same time it petitions or re-petitions COAH for substantive certification or for an amendment to such certification.
 - i. The NJMC shall review the Housing Element and Fair Share Plan and submit a written report of its findings regarding lands within the Hackensack Meadowlands District to COAH within 45 days of the municipality's publication of the notice of its petition or re-petition. Such report may comment upon any aspects of the Housing Element and Fair Share Plan that the NJMC deems appropriate, including but not limited to the following:
 - 1) The municipality's growth share projection with respect to lands located within the District;
 - 2) Any request for an adjustment to the Remaining Prior Round

- Obligation where the request is based, in whole or in part, upon the lack of available land within the District;
- 3) The means by which the municipality proposes to meet its fair share obligation, including the appropriateness of locations, types, and densities of development proposed for housing within the District; and
 - 4) The need for any amendments to the NJMC's rules to enable the municipality to implement its fair share housing plan.
2. A municipality that has substantive certification or a judgment of compliance shall provide the NJMC with copies of all monitoring reports and relevant correspondence submitted to COAH or the Superior Court at the same time such documentation is submitted to these parties.

III. Notice Requirements

The NJMC staff shall notify a municipality of any zoning certificate and/or site suitability application that will affect that municipality under these interim policies.

Memorandum



New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Sara Sundell Date: May 28, 2008

Subject: NJMC Regulations -Affordable Housing Amendments and Interim Policies

On January 11, 2007, the NJMC adopted comprehensive rules governing affordable housing in the Meadowlands District, which were scheduled to become effective upon publication in the New Jersey Register on February 5, 2007. Prior to these new rules becoming effective, the Appellate Division of the New Jersey Superior Court issued its January 25, 2007 decision (A-1960/2665/2674/2706-04T3), in which the Court affirmed in part, reversed in part, and remanded portions of COAH's third round rules, upon which the NJMC's new affordable housing rules were based, back to COAH for rulemaking. Due to this decision, the NJMC halted implementation of its new rules and adopted a policy on March 12, 2007 to direct applicants to contact the respective municipality in which proposed development is located regarding affordable housing requirements while the COAH matter was being resolved in the court.

In a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division determined that the NJMC has a greater responsibility to plan and zone for affordable housing to ensure that constituent municipalities of the Meadowlands District are able to meet their affordable housing obligations. The Board of Commissioners responded by adopting the following policy documents, which expanded the scope of the policy adopted on March 12, 2007:

- *Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing*, adopted on July 25, 2007; and
- *Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission*, adopted on September 19, 2007 (and amended on January 23, 2008 and February 27, 2008).

On December 17, 2007, COAH voted to propose its revised third round rules resulting from the Appellate Division decision on January 25, 2007. The rules were published in the January 22, 2008 issue of the New Jersey Register. At its May 6, 2008 meeting, COAH adopted these rules, which are scheduled to become

effective upon publication in the New Jersey Register on June 2, 2008 to comply with the deadline mandated by the court. At the same meeting, COAH proposed amendments to the adopted rules, which shall be published in the New Jersey Register on June 16, 2008.

NJMC staff now seeks to prepare new affordable housing rules that are consistent with COAH's third round rules and proposed amendments. A summary of the proposal is attached. Additionally, a policy is needed to guide the planning and zoning for affordable housing in a manner consistent with COAH's revised rules for an interim period until the NJMC's new rules become effective. At this time, NJMC staff is requesting the following:

- Authorization to file a Notice of Proposal with the Office of Administrative Law for publication in the New Jersey Register and to hold a public hearing in order to obtain public input on proposed new rules and amendments to existing NJMC rules regulating affordable housing.
- Authorization to rescind the *Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission*. This action would become effective on June 2, 2008 to coincide with the effective date of COAH's new rules and new interim NJMC policies which are consistent with the new COAH rules.
- Adoption of the new interim NJMC policies, attached to the resolution as Exhibit A, to replace the *Emergency Restraints* and guide affordable housing development for the interim period beginning on June 2, 2008 and ending on the date the new NJMC rules become effective. The interim policies would apply to all zoning certificate applications which have not received zoning certificate approval as of June 2, 2008 and to all zoning certificate applications received on or after June 2, 2008.

A resolution requesting the same is attached for your consideration.

SUMMARY OF AFFORDABLE HOUSING RULEMAKING PROPOSAL

Purpose: The proposal shall create new rules and amend the existing NJMC rules that are intended to ensure that constituent municipalities of the Meadowlands District shall meet their affordable housing obligations. The rulemaking proposal shall be tailored for consistency with the revised third round rules of the New Jersey Council on Affordable Housing (COAH) adopted by COAH on May 6, 2008 and scheduled to become effective upon publication in the New Jersey Register on June 2, 2008, and further amendments proposed by COAH at the same meeting, scheduled to become effective in October 2008. Additionally, the NJMC proposal is intended to be responsive to the Appellate Division decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), which determined that the NJMC has a greater responsibility to plan and zone for affordable housing.

Summary: The NJMC's new rules shall apply to all zoning certificate approvals issued by the NJMC on or after the effective date of the rules. Key provisions are summarized as follows:

Exemptions

The following, except as provided, shall be exempt from the rules:

- Development limited to one or two market-rate dwelling units.
- Development by municipal, county, state, and federal government; and utilities, housing and improvement authorities; however, affordable housing development by these parties would be eligible to receive the compensatory benefits and incentives available for inclusionary development.
- Signs, fences/gates, site improvements, tanks, antennae, transmission towers and associated utility structures, recycling and/or refuse areas, loading doors, compactor and concrete utility pads, fill/stockpile operations, salt storage areas, construction trailers, guard sheds, storage sheds with a floor area of less than 400 square feet, remediation activities, temporary uses, and external mechanical equipment.
- Reoccupancy of, or a change in use within, an existing non-residential structure, unless the square footage of the structure increases.

Inclusionary Development

Residential development consisting of five or more dwelling units shall include at least one affordable unit for every four market-rate units.

- In calculating the growth share obligation, any fractional number shall be rounded upward to the next whole number unless the developer chooses to satisfy the fraction with a pro-rated payment in lieu of construction. A per-unit payment in lieu of \$180,267 has been established by COAH for the four-county housing region which includes the Meadowlands municipalities. COAH may revise this amount periodically.

- For mixed-use development, a development fee shall apply to the non-residential component (refer to next section regarding Other Development).
- Incentives for providing affordable units shall be available as follows:
 1. Maximum permitted densities are established for inclusionary development, or residential development in which all units are reserved as affordable, as follows:
 - a. In the Low Density Residential zone, the maximum permitted density shall be increased from 10 dwelling units per acre to 12 dwelling units per acre.
 - b. In the Planned Residential zone, the maximum permitted density shall be increased from 25 dwelling units per acre to 30 dwelling units per acre.
 - c. For residential development permitted in accordance with a determination by the Board of Commissioners that a particular property is suitable for residential use, the maximum permitted density shall be established as 30 dwelling units per acre.
 - d. For a mixed-use development, the applicant may choose to receive the maximum residential density in the zone in which the development is located or an increase of up to 0.25 in the maximum floor area ratio permitted in the zone.
 2. In addition to the applicable density set forth in 1. above, a density bonus of 3 units is permitted for every 25 affordable rental units.
 3. The minimum parking requirement for affordable units is reduced to one space per unit.
- Other requirements apply to affordable units as follows:
 1. Units shall be built in accordance with the phasing schedule established by COAH for market and affordable units.
 2. The units shall be integrated with the market rate units.
 3. Minimum areas apply to units and bedrooms.
 4. Units shall utilize the same heating source as the market-rate units and have access to all community amenities available to market-rate units and subsidized in whole by association fees.
 5. The first floor of all townhome dwellings and other multistory dwelling units shall comply with COAH requirements regarding accessible and adaptable affordable units.
 6. Units shall meet affordability controls. The developer would be responsible for contracting with a COAH-approved entity to administer the units.
 7. Additional COAH requirements apply, including but not limited to regional income limits, proportion of units allocated to persons of low- or moderate-income, maximum rent and/or sales prices, affordability average, bedroom distribution, and affirmative marketing.

Requirement No. 3 is based upon the minimum sizes required by the New Jersey Housing and Mortgage Finance Agency for new units funded under the Balanced Housing Program. All other requirements reflect provisions in COAH's rules.

Other Development

Unless the subject municipality has its own COAH-approved development fee ordinance, other development shall be subject to development fees for the municipality to utilize in addressing affordable housing needs.

- For new residential developments limited to three or four market-rate dwelling units, a fee of one and one half (1½) percent of the equalized assessed value of land and improvements;
- For new non-residential developments, a fee of two and one-half (2½) percent of the equalized assessed value of land and improvements; and
- For the addition or alteration to existing non-residential structures, a fee of two and one-half (2½) percent of the increase in the equalized assessed value.

Funds Held by NJMC on Behalf of a Municipality

The NJMC shall hold the payment in lieu or development fee on behalf of the subject municipality until the municipality receives COAH certification or a judgment of compliance.

- The municipality may be subject to enforcement action by COAH for the expenditure of funds on activities not approved by COAH or other good cause demonstrating that the funds are not being used for the approved purpose.
- A town shall not be eligible to receive payments if:
 1. The town fails to petition COAH with a housing element and fair share plan within two years of the rule's effective date;
 2. The town withdraws its petition;
 3. COAH revokes, denies or dismisses its substantive certification; or
 4. The Superior Court revokes a judgment of compliance.
- Payment received by the NJMC on behalf of ineligible municipalities shall be distributed to public sector and non-profit agencies through a proposal process. Selected entities shall use the funds to create or rehabilitate affordable housing. Preference shall be given to projects within the subject municipality.

Other Major Provisions

Additional provisions would foster affordable housing production in the District:

- Municipalities retain the existing option available under NJMC regulations to request a rezoning of land or redevelopment plan amendment to meet their affordable obligations.
- The Board of Commissioners will consider property owner requests to determine the suitability of particular sites for housing when the zone does not permit residential uses. The process includes review by the Hackensack Meadowlands Municipal Committee (HMMC).
- The NJMC shall receive, review, and comment upon Housing Elements and Fair Share Plans and annual monitoring reports submitted to COAH by the municipalities.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER
INTO AN AGREEMENT FOR ENVIRONMENTAL ENGINEERING
SERVICES TO PERFORM BROWNFIELD ASSESSMENTS**

WHEREAS, the NJMC Master Plan seeks, through its policies and strategies, to realize the opportunities for economic growth offered by the revitalization of brownfield sites in the Meadowlands District; and

WHEREAS, the New Jersey Meadowlands Commission (NJMC) has entered into a Cooperative Agreement with the United States Environmental Protection Agency (EPA) regarding a brownfields assessment grant to conduct environmental characterizations of one or more clusters of brownfield sites in the Meadowlands District; and

WHEREAS, the Cooperative Agreement includes an approved budget which provides for a contractor to perform the site assessments and assist the NJMC with community outreach regarding grant activities; and

WHEREAS, the NJMC received submissions from fourteen firms in response to a *Request for Statements of Qualifications: Environmental Engineering Services to Perform Brownfield Assessments*, released on January 22, 2008; and

WHEREAS, an evaluation panel reviewed and ranked the proposals and interviewed the three firms which had received the highest preliminary rankings, including GeoTrans, Inc.; The Louis Berger Group; and H2M Associates, Inc.; and

WHEREAS, the evaluation panel has selected GeoTrans, Inc. as the most qualified firm to perform these services.

NOW, THEREFORE, BE IT RESOLVED that the NJMC authorizes the Executive Director to enter into an agreement with Geo Trans, Inc. to conduct environmental engineering services to fulfill the purposes of a federal EPA brownfields assessment grant in an amount not to exceed \$141,441.

The foregoing Resolution was adopted by Commission vote.

Joseph V. Doria, Jr.
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of May 28, 2008.

Robert R. Ceberio
Secretary

Resolution No. 08-47

Memorandum



New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Sara Sundell Date: May 28, 2008

Subject: Environmental Engineering Services to Perform Brownfield Assessments

The NJMC has received approval of an application to the U.S. Environmental Protection Agency (EPA) to conduct environmental assessments of priority brownfield sites. The EPA defines brownfields as "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant." The assessments are to be based on the "Area Wide" approach, which seeks to evaluate environmental conditions regarding clusters of brownfield sites on a regional basis, rather than individual properties. The Area Wide approach provides environmental and economic efficiencies that can accelerate the redevelopment process.

The EPA approval includes a budget for a contractor to perform site assessments and assist the NJMC with community outreach activities. A total of 14 environmental engineering firms submitted proposals on or before the March 14, 2008 deadline in response to a Request for Statements of Qualifications released on January 22, 2008. An evaluation panel reviewed and ranked the proposals and interviewed the three firms that had received the highest preliminary rankings: GeoTrans, Inc.; The Louis Berger Group, Inc.; and H2M Associates, Inc. The panel has selected GeoTrans, Inc. as the most qualified firm to perform these services. Accordingly, staff recommends the Commission authorize the Executive Director to enter into an agreement with GeoTrans, Inc., to perform environmental engineering services to fulfill the purposes of a federal EPA brownfields assessment grant, in an amount not to exceed \$141,441. A resolution requesting the same is attached for your consideration.

**RESOLUTION AUTHORIZING
A MEMORANDUM OF AGREEMENT WITH BERGEN COUNTY
TO SUPPORT PHASE 2 OF THE RESTORATION OF THE
RUTHERFORD/EAST RUTHERFORD
DRAINAGE DITCH SYSTEM PROJECT**

WHEREAS, The Hackensack Meadowlands Floodplain Management Plan was adopted by Resolution No. 05-106 on October 26, 2005; and

WHEREAS, the Plan ranked the mitigation of flooding on Route 17 in the Boroughs of Rutherford and East Rutherford as an "extreme" priority; and

WHEREAS, the NJMC has completed the design and permitting of improvements to the drainage ditch system and tide gates downstream of Route 17 as part of the Restoration of the Rutherford/East Rutherford Drainage Ditch System Project; and

WHEREAS, the NJMC has selected a contractor and has initiated Phase 1 of the Project, which includes the construction and upgrade of the tide gates; and

WHEREAS, the NJMC is in need of both excavation equipment and skilled equipment operators for Phase 2 of the Project, which includes the cleanout of the Rutherford and East Rutherford drainage ditches; and

WHEREAS, Bergen County has agreed to assist the NJMC on the cleanout of the drainage ditch system by providing excavation equipment and operators from the Bergen County Mosquito Division; and

WHEREAS, the NJMC must enter into a Memorandum of Agreement with Bergen County in order to move forward on the cleanout of the drainage ditches in Rutherford and East Rutherford;

NOW, THEREFORE BE IT RESOLVED, that the New Jersey Meadowlands Commission authorizes the Executive Director to enter into Memorandum of Agreement with Bergen County for the purposes of cleaning out the Rutherford and East Rutherford drainage ditches from Route 17 to Berry's Creek and Berry's Creek Canal;

The foregoing Resolution was adopted by Commission vote.

Joseph V. Doria, Jr.
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of May 28, 2008.

Robert R. Ceberio
Secretary

Resolution No. 08-48

Memorandum



New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Sara Sundell Date: May 28, 2008

Subject: Memorandum of Agreement with Bergen County to Support Phase 2 of the Restoration of the Rutherford/East Rutherford Drainage Ditch System Project.

The Hackensack Meadowlands Floodplain Management Plan, adopted by the Commission per Resolution No. 05-106 on October 26, 2005, identified the mitigation of flooding on Route 17 in the Boroughs of Rutherford and East Rutherford as an "extreme priority." Route 17, local parking lots, and local roadways flood regularly during small storm events and spring high tide events. As such, the NJMC hired a consultant to complete the design and permitting of both Phase 1, the restoration of the downstream tide gates, and Phase 2, the cleanout of the drainage ditches as part of the Restoration of the Rutherford/East Rutherford Drainage Ditch System Project. The NJMC authorized a contractor to start construction on Phase 1 on April 17, 2008.

The NJMC has had recent discussions with the Bergen County Mosquito Division ("Division") regarding their future assistance on the Phase 2 cleanout of the Rutherford and East Rutherford drainage ditches, which total approximately 1.5 miles in length. The Division has agreed to assist the NJMC by providing excavators and operators for the duration of cleanout operations. The NJMC will provide material hauling equipment as well as necessary access improvements.

At this time, the NJMC staff is requesting that the Commission authorize the Executive Director to enter into a Memorandum of Agreement with Bergen County for the purposes of cleaning out the essential drainage systems from Route 17 to Berry's Creek and Berry's Creek Canal as part of Phase 2 of the Restoration of the Rutherford/East Rutherford Drainage Ditch System Project.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER
INTO AN AGREEMENT FOR THE IMMEDIATE REPAIR OF THE
MOONACHIE CREEK LEVEE BREACH BY
TRANSCONTINENTAL GAS PIPELINE CORPORATION,
WITHDRAWAL OF THE ASSOCIATED NOTICE OF VIOLATION, AND
DESIGN AND CONSTRUCTION OF A PERMANENT TIDE GATE SYSTEM**

WHEREAS, the New Jersey Meadowlands Commission ("NJMC") has, at various times, advanced its long-standing commitment to control flooding in the District through flood control initiatives, including the emergency repair and replacement of levees and tide gates; and

WHEREAS, as a result of a Nor'easter on or about April 15, 2007, flood control structures in the District were damaged and flooding of properties in and around the Richard P. Kane Natural Area in Carlstadt and South Hackensack increased in frequency, severity, and duration; and

WHEREAS, NJMC boat inspections conducted after the Nor'easter revealed damage to the levee and tide gate system, located on ("Transco") property in Block 137 Lot 6 and Lot 7, Borough of Carlstadt, situated between the historic outlet of Bashes Creek and the outlet of Moonachie Creek to the Hackensack River ("Moonachie Creek Tide Gate and Levee System" or "Moonachie Creek System"); and

WHEREAS, the NJMC, in response to the concerns of owners of property impacted by the increased flooding ("Property Owners"), and NJMC's own inspections, sent notice to Transco, by way of a May 4, 2007 letter and an October 22, 2007 Notice of Violation, requesting the immediate repair of the damaged Moonachie Creek System, to which Transco responded disclaiming responsibility for said system; and

WHEREAS, in an attempt to resolve the matter, Transco and NJMC began settlement discussions, said discussions having recently been joined by the aggrieved Property Owners; and

WHEREAS, based on the above, Transco, the Property Owners, and the NJMC have decided to amicably resolve the dispute between them and have reached a mutually satisfactory agreement ("Agreement"), this Agreement to require, first, the immediate repair and subsequent maintenance of the Moonachie Creek System levee breaches ("Interim Measure"), the satisfactory construction of which shall resolve and cause to be withdrawn the outstanding November 22, 2007 Notice of Violation, and, second, the construction of a permanent tide gate system ("New System") to function as a flood control mechanism benefiting the impacted properties north of the Moonachie Creek System, such new system to be funded by Transco and designed and constructed by the NJMC; and

WHEREAS, the Agreement sets forth that initial funding for the Interim Measure and New System shall be provided by Transco through an up front payment to an escrow account, that construction and maintenance of the Interim Measure shall be provided by Transco, and that construction and maintenance of the New System shall be provided by the NJMC; and

WHEREAS, to compel an amicable resolution to this matter and to insure that relief to the Property Owners will be provided on an expedited basis, the NJMC agrees to provide funding for costs associated with the Interim Measure once certain project milestones are met, in accordance with the terms of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the New Jersey Meadowlands Commission that the Executive Director is authorized to enter into an Agreement with Transcontinental Gas Pipeline Corporation and the Property Owners who are signatories to the Agreement, to result in the immediate repair and maintenance of the breached levee in the Moonachie Creek System, and subsequent design, construction and maintenance of a permanent tide gate system, and that an appropriation in an amount not to exceed \$150,000.00 for any funding obligation incurred by the NJMC as a result of the Agreement is hereby approved; and

BE IT FURTHER RESOLVED by the New Jersey Meadowlands Commission that the Executive Director is authorized to withdraw the October 22, 2007 Notice of Violation issued to Transcontinental Pipeline Corporation, subject to Transcontinental Pipeline Corporation's completion of the levee repair and satisfaction of applicable provisions in the Agreement; and

BE IT FURTHER RESOLVED by the New Jersey Meadowlands Commission that the NJMC 2008 budget be amended by \$150,000.

The foregoing Resolution was adopted by Commission vote.

Joseph V. Doria, Jr.
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of May 28, 2008.

Robert R. Ceberio
Secretary

Memorandum



New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Christine A. Sanz Date: May 28, 2008

Subject: Repair of Breached Levee by Transco, Withdrawal of an Associated Notice of Violation, and Design and Construction of a New Tide Gate System

The New Jersey Meadowlands Commission ("NJMC") seeks to continue its long-standing commitment to flood control in the District by facilitating an Agreement between interested parties for the repair and replacement of damaged flood control structures on property owned by Transcontinental Gas Pipeline Corp. ("Transco"), and to resolve an outstanding Notice of Violation.

Following a Nor'easter on or about April 15, 2007, flooding of properties in and around the Richard P. Kane Natural Area in Carlstadt and South Hackensack increased in frequency, severity, and duration. In response to concerns of property owners and reports from the NJMC's own inspections, a Notice of Violation was sent to Transco requesting that they make immediate repairs to the damaged Moonachie Creek Tide Gate and Levee System ("Moonachie Creek System") located on their property. Transco disclaimed responsibility, at which point Transco and the NJMC began settlement discussions, recently joined by a group of impacted property owners ("Property Owners"), in an attempt to amicably resolve the matter and bring relief to the Property Owners.

As a result of these discussions, Transco, the Property Owners, and the NJMC have decided to amicably resolve the dispute between them and have reached this Agreement to be finalized upon authorization by the NJMC Board of Commissioners and execution of the final part of the Agreement. This Agreement requires, first, the immediate repair and subsequent maintenance of the Moonachie Creek System levee breaches ("Interim Measure"), the satisfactory construction of which shall resolve and cause to be withdrawn the outstanding Notice of Violation, and, second, the construction of a permanent tide gate system ("New System") to function as a flood control mechanism benefiting the impacted properties north of the Moonachie Creek System, such new system to be funded by Transco and designed and constructed by the NJMC.

Initial funding for the construction and maintenance of the Interim Measure and the New System will be provided by Transco through a deposit into an escrow account. To insure that relief to the Property Owners will be provided on an expedited basis and to facilitate the amicable resolution of this matter, the NJMC agrees to provide funding for costs associated with the Interim Measure, once certain project milestones are met, in accordance with the terms of the Agreement. An appropriation in an amount not to exceed \$150,000.00 will be made for any funding obligation incurred by the NJMC as a result of the Agreement.

**RESOLUTION ISSUING A DECISION ON THE
SUITABILITY RECOMMENDATION AS REQUIRED BY THE
NJMC EMERGENCY RESTRAINTS UPON FURTHER DEVELOPMENT
FILE NO. 08-182, Scientific Design / Additions
BLOCK 108.03, LOT 3, IN THE BOROUGH OF LITTLE FERRY**

WHEREAS, in a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing; and

WHEREAS, on July 25, 2007, the Commission adopted Resolution No. 07-68, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing"; and

WHEREAS, on September 19, 2007, the Commission adopted Resolution No. 07-74, which approved Guidelines entitled, "Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission," that will govern the review of and restraints upon applications for further development in the Meadowlands District; and

WHEREAS, the Guidelines govern all zoning certificate applications received on or after May 21, 2007 and remain in effect until the NJMC promulgates new regulations concerning affordable housing, or the Guidelines are withdrawn or rescinded by Commission action or court order, whichever occurs first; and

WHEREAS, the Guidelines set forth the criteria for a Review Team, comprised of three NJMC staff members including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, and also a professional planner representing the municipality in which the proposed development is located, to review each zoning certificate application to determine the suitability of the subject site for residential use; and

WHEREAS, a zoning certificate application was submitted to the NJMC on March 28, 2008 by Vijay Bhise, of Scientific Design, for the premises identified as 49 Industrial Avenue, Block 108.03, Lot 3, in the Borough of Little Ferry, New Jersey and which is located in the Light Industrial B zone; and

WHEREAS, the application proposes to construct a 3,411 square foot office addition and a 3,615 square foot warehouse/industrial addition to an existing facility on the subject property, and as such, is not exempt from the Emergency Restraints; and

WHEREAS, the application was forwarded to the Review Team for review of the application in accordance with the Emergency Restraints; and

WHEREAS, a suitability review, dated May 12, 2008, and attached hereto, has been prepared, indicating the recommendation of the Review Team in this matter; and

WHEREAS, the suitability review recommends that the subject property is unsuitable for residential use; and

WHEREAS, the members of the NJMC have reviewed the suitability review and recommendation prepared by the Review Team, regarding the subject property; and

WHEREAS, the members of the NJMC concur with the recommendation of the Review Team; and

WHEREAS, the NJMC hereby determines that the subject property is unsuitable for residential use.

NOW, THEREFORE, BE IT RESOLVED, by the New Jersey Meadowlands Commission, that the subject property located at Block 108.03, Lot 3, in the Borough of Little Ferry is unsuitable for residential use.

The foregoing was adopted on Commission vote.

Joseph V. Doria, Jr.
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of May 28, 2008.

Robert R. Ceberio
Secretary

Memorandum



New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Sara Sundell Date: May 28, 2008

Subject: Site Suitability Recommendation for 49 Industrial Avenue in the Borough of Little Ferry

In a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing. The Commission followed up by adopting Resolution No. 07-68, on July 25, 2007, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing." Thereafter, on September 19, 2007, the Commission adopted Resolution No. 07-74, which approved Guidelines entitled, "Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission."

These Guidelines will govern the review of and restraints upon zoning certificate applications for further development in the Meadowlands District. The Guidelines apply to all zoning certificate applications already filed with the NJMC which have not received zoning certificate approval as of January 23, 2008, and to all zoning certificate applications received by the NJMC on or after January 23, 2008, and will remain in effect until the NJMC promulgates new regulations concerning affordable housing, or the Guidelines are withdrawn or rescinded by Commission action or court order, whichever occurs first. The Guidelines set forth the criteria for a Review Team, comprised of three NJMC staff members, including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, and also a professional planner representing the municipality in which the proposed development is located, to review each zoning certificate application to determine the suitability of the subject site for residential use.

A zoning certificate application was submitted to the NJMC on March 28 19, 2008 by Vijay Bhise, of Scientific Design, for the premises identified as 49 Industrial Avenue, Block 108.03, Lot 3, in the Borough of Little Ferry, New Jersey and which is located in the Light Industrial B zone. The application proposes the construction of a 3,411 square foot office addition and a 3,615 square foot warehouse/industrial addition to an existing facility on the subject property, and as such, is not exempt from the Emergency Restraints.

The application was forwarded to the Review Team for review of the application in accordance with the Emergency Restraints. A suitability review, dated May 12, 2008, has been prepared, indicating that the Review Team recommends that the subject property is unsuitable for residential use.

At this time, Staff is recommending that the members of the NJMC concur with the suitability recommendation prepared by the Review Team, regarding the subject property, which determines that the subject property is unsuitable for residential use.



Suitability Review - Summary

File No. 08-182

*Scientific Design / Additions
Block 108.03, Lot 3, Little Ferry*

May 12, 2008

A zoning certificate application was submitted to the NJMC on March 28, 2008, by Vijay Bhise of Scientific Design, for the premises identified as 49 Industrial Avenue, Block 108.03, Lot 3, in Little Ferry, New Jersey. The application proposes the construction of a 3,411 square foot office addition and a 3,615 square foot warehouse/industrial addition to an existing facility.

The subject property is located in the Light Industrial B zone, which is **deemed unsuitable for housing** in accordance with the "Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission," adopted by the NJMC on September 19, 2007.

Therefore, the applicant may proceed with the proposed development; however, the proposed development will generate a need for affordable housing within the municipality. As a condition of zoning certificate approval, if granted, the applicant shall be required to satisfy the project's affordable housing requirements as per Section II of the Emergency Restraints.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO
APPROPRIATE FUNDS TO THE MUNICIPAL CO-OP PROGRAM FOR THE
PURCHASE OF EQUIPMENT**

WHEREAS, Governor Jon Corzine has expressed the need for municipalities in New Jersey to more effectively share services and equipment to make the most efficient use of taxpayers dollars; and

WHEREAS, Commissioner Joseph V. Doria, Jr. and the New Jersey Department of Community Affairs have worked to encourage local governments to leverage State financial resources to find ways to share resources with each other to lower the cost and improve the efficiency of providing government services; and

WHEREAS, the New Jersey Meadowlands Commission (NJMC) has provided the Meadowlands Municipalities with Municipal Assistance Program (MAP) grants, and access to the NJMC Municipal Equipment Pool to help stabilize or lower municipal taxes in the Meadowlands District; and

WHEREAS, because of financial constraints many of the Meadowlands Municipalities cannot afford to purchase equipment, undertake repairs, expand recreational facilities and address flooding issues; and

NOW, THEREFORE BE IT RESOLVED by the New Jersey Meadowlands Commission that the Executive Director is hereby authorized to allocate \$80,000 for the purchase of the following pieces of equipment; (1) Magnum MLT 5060 Trailer Mounted Light Tower (state contract); (1) Root Cutter attachment for Jet-Vac Truck, (2) Enclosed 4" Diesel Engine Dri-Prime Pump, to be shared with the Meadowlands Municipalities and administered through the Municipal Co-Op Program.

Joseph V. Doria, Jr
Chairman

I hereby certify the forgoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at their meeting on May 28, 2008.

Robert R. Ceberio
Secretary

Memorandum



New Jersey Meadowlands Commission

To: NJMC Commissioners

From: Robert R. Ceberio, Executive Director

Date: May 28, 2008

Subject: Municipal CO-OP Purchase

The New Jersey Meadowlands Commission (NJMC) has provided the Meadowlands Municipalities with Municipal Assistance Program (MAP) grants and access to the NJMC Municipal Equipment Pool to, among other things, help stabilize or lower municipal taxes in the Meadowlands District.

The New Jersey Meadowlands Commission staff has worked with local DPW officials to best match the equipment in addressing municipalities' needs.

We recommend that the following pieces of equipment be purchased; (1) Magnum MLT 5060 Trailer Mounted Light Tower (state contract); (1) Root Cutter attachment for Jet-Vac Truck, (2) Enclosed 4" Diesel Engine Dri-Prime Pump, to be shared with the Meadowlands Municipalities and administered through the Municipal Co-Op Program.

RESOLUTION TO AWARD OPERATIONS, MANAGEMENT AND MAINTENANCE SERVICES FOR THE NJMC KEEGAN LANDFILL TO WASTE MANAGEMENT OF NEW JERSEY, INC.

WHEREAS, the Commission has had a long standing policy of closing orphan landfill sites in the District; and

WHEREAS, the Keegan Landfill in Kearny is a 110-acre landfill that is owned by the Town of Kearny and the NJMC, and which has had no environmental improvements installed since the landfill closed to operations in 1972. Leachate has migrated continuously into the surrounding wetlands; and

WHEREAS, by Resolution 07-107, the NJMC is currently constructing the required engineering improvements to prevent this migration of hundreds of millions of gallons of leachate into District wetlands including the Kearny Freshwater Marsh; and

WHEREAS, as the NJMC has done in the past, in order to recoup the cost of this extensive site remediation project, limited filling with non-decomposable construction and demolition debris at the Keegan Landfill will commence on January 2, 2009, subsequent to the closure of the NJMC 1-E Landfill in North Arlington; and

WHEREAS, under advice from the Attorney General's Office, the Solid Waste Division advertised an Expression of Interest for the Keegan Landfill Operations, Management and Maintenance services in the Star Ledger, Bergen Record, and the New York Times; and

WHEREAS, responses were received from two firms; Waste Management of New Jersey, Inc. (our current landfill operator), and Soil Safe Incorporated. While Waste Management's submittal was fully responsive to the solicitation, Soil Safe did not meet the basic requirements demonstrating operating experience since they are a firm that produces remediated soil for capping of landfills or brownfield sites; and

WHEREAS, based upon the expert knowledge of NJMC professionals regarding solid waste and landfill operations and in particular based upon the fact that despite extensive advertising and a process approved by counsel of the Attorney General's Office only one qualified firm has expressed an interest, Waste Management of NJ, Inc. is a sole source vendor; and

WHEREAS, the start-up of operations is anticipated to commence on January 2, 2009. The initial contract will be for a five year period with two (2) one-year options, with these options exercised at the sole discretion of the NJMC.

NOW, THEREFORE BE IT RESOLVED that the Executive Director is hereby authorized to prepare a Contract with Waste Management of New Jersey, Inc. for a five year period with two (2) one-year options, with these options exercised at the sole discretion of the NJMC. The cost for these services will start at the current \$13.00 per ton and increase each subsequent year based on the CPI for all urban consumers. The NJMC also agreed to a minimum fee for the operations at Keegan based on 15,000 tons per month. In return for this commitment, all tonnage over 25,000 tons per month would be billed at a rate of \$11.00 per ton.

The foregoing resolution was adopted by Commission vote.

Joseph V. Doria
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of May 28, 2008.

Robert R. Ceberio
Secretary

Resolution 08-52

Memorandum



New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Thomas R. Marturano Date: May 28, 2008

Subject: Keegan Landfill Operational Services

As you know, the Commission has had a long-standing policy of closing orphan landfill sites, with the Keegan Landfill being the most recent recipient of the implementation of this policy.

The Keegan Landfill in Kearny is a 110-acre landfill that is owned by the Town of Kearny and the NJMC. There have been no environmental improvements installed since the landfill was closed to operations in 1972. Leachate migrates continuously into the surrounding wetlands. Much of this leachate empties into the Kearny Freshwater Marsh, which is the largest freshwater marsh in the District, which is owned by the NJMC. The controls currently being constructed by the Commission (resolution 07-107) will prevent the migration of hundreds of millions of gallons of leachate into this important marsh.

As we have done in the past, in order to recoup the cost of this extensive site remediation project, almost 30 million dollars, we are planning on the limited filling of the Keegan Landfill with non-putrescible construction and demolition debris. This will commence on January 2, 2009. Our current filling operations at the NJMC 1-E landfill will cease just prior to this date, on December 31, 2008.

Under advice from the Attorney General's Office, the Solid Waste Division advertised an Expression of Interest for the Keegan Landfill Operations, Management and Maintenance services in the Star Ledger, Bergen Record, and the New York Times. Responses were received from two firms; Waste Management of New Jersey, Inc., and Soil Safe Incorporated. While Waste Management's submittal was fully responsive to the solicitation, Soil Safe did not respond to the Expression's requirements, and instead used the opportunity to offer its services to cap the site once it was filled.

Pursuant to public procedure followed by NJMC upon advice from the Office of the Attorney General, Waste Management constitutes a sole source vendor. As noted, start-up of operations is not anticipated to commence until January 2, 2009 when the NJMC 1-E Landfill will be closed.

Accordingly, the NJMC negotiated the cost of the services directly with Waste Management, which are currently \$13.00 per ton at the NJMC 1-E Landfill. While the cost to Waste Management to provide these services has gone up dramatically over the past few years due to fuel, equipment, etc., the Solid Waste Division was able to keep the rate at \$13.00 per ton, which is extremely favorable in today's market. Waste Management has agreed to a new landfill operating agreement effective January 1, 2009 through December 31, 2015, at the current rate of \$13.00 per ton with an annual CPI adjustment based on the New York-Northern New Jersey for all Urban Consumers. The CPI rate adjustment will go into effect on January 1, 2009 and this adjustment will cover any increased costs associated with fuel cost referred to in our letter. The NJMC also agreed to a minimum fee for the operations at Keegan based on 15,000 tons per month. In return for this commitment, all tonnage over 25,000 tons per month would be billed at a rate of \$11.00 per ton. Finally, we negotiated the initial contract for a five year period, and provided two (2) one-year options for flexibility, with these options exercised at the sole discretion of the NJMC.

RESOLUTION: CLOSED SESSION

WHEREAS, the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the holding of closed session by public bodies in certain circumstances; and

WHEREAS, the New Jersey Meadowlands Commission is of the opinion that those circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That a closed session of the NJMC will be held to discuss the following:
 - Personnel
2. It is anticipated at this time that the above subject matter(s) will be made public upon completion of said matter(s).

This Resolution shall become effective immediately. The foregoing Resolution was adopted by Commission vote.

Joseph V. Doria, Jr.
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of May 28, 2008.

Robert R. Ceberio
Secretary

Resolution No. 08-53