

STATE OF NEW JERSEY
HUNTERDON COUNTY

.....
Jill Machado, of full age, being duly sworn upon her oath,
saith: that she is connected with **THE HUNTERDON**
COUNTY DEMOCRAT, a newspaper published in
Hunterdon County, New Jersey; that a notice of which the
annexed is a true copy, was published on the
10th day of September A.D., 2009,
in said newspaper and once a week thereafter successively,
in all week(s), viz.: upon

Jill Machado
.....

Sworn and subscribed before me this

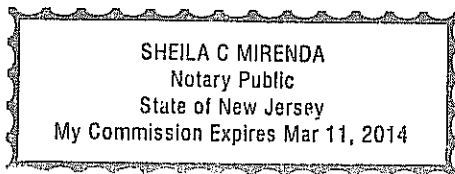
11th day of September A.D. 2009

Sheila C. Mirenda
.....

Notary Public of N.J.

Sheila C. Mirenda

My Commission Expires March 11, 2014



**Tewksbury Township
Land Use Board**

PUBLIC NOTICE is hereby given that the Land Use Board of the Township of Tewksbury will conduct a public meeting to review and discuss the Draft Highlands Master Plan Element. The meeting will be held on Wednesday, September 23, 2009 at 7:30 p.m. in the Mountainville Meeting Hall, 60 Water Street, Mountainville (Lebanon). A copy of the Draft Highlands Master Plan Element is available for public review at the Office of the Land Use Board Secretary, 169 Old Turnpike Road, Califon between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday.

Shana L. Goodchild
Land Use Administrator
Tewksbury Township
(P's fee \$19.94)

09/10/09

LAND USE BOARD AGENDA
September 23, 2009
7:30 p.m.

Call to Order

Roll Call

Open Public Meetings Act Statement

Claims – see back

Correspondence- see back

Minutes

➤ August 19, 2009

Ordinance Report

Public Participation

Draft Highlands Master Plan Element

Review and discussion of draft Highlands Master Plan Element (Module 5)

Adjournment

CLAIMS

1. Bernstein & Hoffman – Land Use Board Escrow – d3 Realty (Gary Dean) (B45, L36) – invoice dated May 18, 2009 (\$637.00)
2. Maser Consulting – Land Use Board Escrow – d3 Realty (Gary Dean) (B45, L36) – invoice #126562 (\$682.50)
3. Maser Consulting – Land Use Board Escrow – d3 Realty (Gary Dean) (B45, L36) – invoice #128239 (\$130.00)
4. Maser Consulting – Land Use Board Escrow – Vilenchik (B12, L32) – invoice #131357 (\$520.00)
5. Maser Consulting – Land Use Board Escrow – Yarusinsky (B15, L12) – invoice #131358 (\$195.00)
6. Maser Consulting – Land Use Board Escrow – Lance (B39, L1/28) – invoice #131360 (\$617.50)
7. Maser Consulting – Land Use Board Escrow – DeFelice (B36, L3.18) – invoice #131361 (\$617.50)
8. Maser Consulting – Land Use Board Escrow – Brown (B11, L34) – invoice #131363 (\$390.00)
9. Maser Consulting – Land Use Board Informal Escrow – AM Best (46, L5,6 & 2.01) – invoice #131364 (\$585.00)
10. Maser Consulting – Land Use Board General Work – invoice #131356 (\$195.00)
11. Maser Consulting – Land Use Board Escrow – Borghese (B27, L146) – invoice #131362 (\$1,095.00)
12. Suburban Consulting – Land Use Board Inspection – OAH (B45, L28) – invoice #12574 (\$307.94)
13. Banisch Associates, Inc. – Land Use Board Escrow – DeFelice (B36, L3.18) – invoice #P09-15213 (\$749.80)

CORRESPONDENCE

1. Hunterdon County Soil Conservation District reports for:
 - McKaba Dwelling – Block 33, Lot 21
 - The Clover Field Farm Dwelling and Barn/Apt. – Block 42, Lot 6.01
 - Crimi Fill Plan – Block 4, Lots 4.02 & 4.16
2. A copy of a letter dated September 15, 2009 from Daniel Bernstein to Elizabeth Ciccone, Appellate Division, Superior Court regarding O'Neill v. Tewksbury Township, Wood and Tewksbury Township LUB.
3. A copy of the Draft Model Highlands Element for Municipal Master Plans from Frank Banisch (dated May, 2009).
4. Opt-in Tewksbury Affordable Housing Fact Sheet from the Citizens to Save Tewksbury and Residents Alliance for Neighborhood Preservation.
5. Information from ANJEC regarding The Economics of Green, October 17, 2009.
6. A copy of the Decision and Order from the Board of Public Utilities for the JCP&L matter, Block 17, Lot 2.
7. Session information from Rutgers regarding Land Use for Municipal Planning Boards and Zoning Boards of Adjustments.
8. A copy of a resolution from the Tewksbury Environmental Commission urging the Township Committee to bring the Tewksbury Township Planning Area into conformance with the Highlands Regional Master Plan.
9. 2009 NJPO Fall Training Programs for Planning Board and Zoning Boards of Adjustment.
10. A copy of a letter from Marc Lasky to the Board of Public Utilities dated September 8, 2009 regarding JCP&L, Block 17, Lot 2.
11. A copy of a letter from Geoffrey and Deborah Close to the Township Committee dated September 3, 2009 regarding the NJ BPU decision on the JCP&L application, Block 17, Lot 2.
12. A copy of Township Committee Resolution No. 103-2009 regarding the removal of water restrictions at the Crossroads at Oldwick development.
13. Notice from Applied Water Management regarding a Treatment Works Approval Application for Pottersville Wastewater Treatment Improvements.

LAND USE BOARD MINUTES
September 23, 2009

The Tewksbury Township Land Use Board met in a special meeting on the above date in the Municipal Meeting Hall, 60 Water Street, Mountainville, New Jersey. The meeting was called to order at 7:50 p.m.

Present: Chairman Blake Johnstone, Pino Blangiforti, Elizabeth Devlin, Mary Elizabeth Baird, Bruce Mackie, Shirley Czajkowski, Michael Moriarty (Alt. #1), Ed Kerwin (Alt. #2), Arnold Shapack (Alt. #3) and Eric Metzler (Alt. #4).

Also present: Shana L. Goodchild, Land Use Administrator.

Absent: Mayor Louis DiMare, Dana Desiderio and Committeeman Robert Hoffman

There were thirty (30) people in the audience.

OPEN PUBLIC MEETING ACT STATEMENT

Mr. Johnstone opened the meeting by announcing that adequate notice of the meeting had been provided by posting a copy thereof on the Police/Administration Building bulletin board, faxing a copy to the Hunterdon Review and the Hunterdon County Democrat, and filing with the Municipal Clerk, all on September 2, 2009.

CLAIMS

Mr. Johnstone asked the Board if there were any questions or comments regarding the following claims to which the response was negative. Mr. Blangiforti made a motion to approve the claims listed below and Mr. Shapack seconded that motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Land Use Board Escrow – d3 Realty (Gary Dean) (B45, L36) – invoice dated May 18, 2009 (\$637.00)
2. Maser Consulting – Land Use Board Escrow – d3 Realty (Gary Dean) (B45, L36) – invoice #126562 (\$682.50)
3. Maser Consulting – Land Use Board Escrow – d3 Realty (Gary Dean) (B45, L36) – invoice #128239 (\$130.00)
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12. Suburban Consulting – Land Use Board Inspection – OAH (B45, L28) – invoice #12574 (\$307.94)

13. Banisch Associates, Inc. – Land Use Board Escrow – DeFelice (B36, L3.18) – invoice #P09-15213 (\$749.80)

Roll Call Vote:

Ayes: Mrs. Baird, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Blangiforti, Mr. Moriarty, Mr. Kerwin, Mr. Shapack, Mr. Metzler and Mr. Johnstone

None: None

CORRESPONDENCE

Mr. Johnstone asked the Board if there were any questions or comments regarding the following list of correspondence to which the response was negative. A motion was made by Mrs. Devlin and seconded by Mrs. Baird acknowledging receipt of the following items of correspondence. All were in favor.

CORRESPONDENCE

1. Hunterdon County Soil Conservation District reports for:
 - McKaba Dwelling – Block 33, Lot 21
 - The Clover Field Farm Dwelling and Barn/Apt. – Block 42, Lot 6.01
 - Crimi Fill Plan – Block 4, Lots 4.02 & 4.16
2. A copy of a letter dated September 15, 2009 from Daniel Bernstein to Elizabeth Ciccone, Appellate Division, Superior Court regarding O'Neill v. Tewksbury Township, Wood and Tewksbury Township LUB.
3. A copy of the Draft Model Highlands Element for Municipal Master Plans from Frank Banisch (dated May, 2009).
4. Opt-in Tewksbury Affordable Housing Fact Sheet from the Citizens to Save Tewksbury and Residents Alliance for Neighborhood Preservation.
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10. A copy of a letter from Marc Lasky to the Board of Public Utilities dated September 8, 2009 regarding JCP&L, Block 17, Lot 2.
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12. A copy of Township Committee Resolution No. 103-2009 regarding the removal of water restrictions at the Crossroads at Oldwick development.
13. Notice from Applied Water Management regarding a Treatment Works Approval Application for Pottersville Wastewater Treatment Improvements.

Minutes

- August 19, 2009

A motion was made by Mrs. Devlin and seconded by Mrs. Baird to adopt the minutes of August 19, 2009. All were in favor. Mr. Moriarty abstained.

Ordinance Report

Mr. Mackie reported on several ordinances from Clinton Township amending their construction ordinance, flood damage prevention regulations, requiring submission of a professionally prepared survey/plat for zoning permit applications and an amendment to the definition of corner lot. Mr. Mackie had no recommendations.

Public Participation

Mr. Johnstone noted that the Mayor could not attend due to foot surgery and the Deputy Mayor could not attend due to back trouble. He added that both of them are familiar with the content of the Highlands presentation that will be provided by Mr. Banisch.

Mr. Johnstone asked the public if there were any questions or comments regarding anything not on the agenda to which the response was negative. Therefore, he closed the public portion of the session.

Draft Highlands Master Plan Element

- Review and discussion of draft Highlands Master Plan Element (Module 5)

Mr. Johnstone prefaced the presentation by stating that Mr. Banisch will provide an outline of the plan. He stressed that no decision will be made tonight about opting in; it is an information session only. Mr. Johnstone noted that it is Mr. Banisch's recommendation that, at the completion of the presentation, the Board appoint a sub-committee to review the draft Highlands Master Plan Element and report back to the Land Use Board at a future date.

Mr. Johnstone announced that on October 27, 2009 Eileen Swan from the Highlands Council will provide Highlands Status update along with the opportunity to discuss the potential TDR grant as well as discussions related to opting in.

Mr. Hank Klumpp requested that the Board Pledge Allegiance to the flag. Those present stood and pledged allegiance to the American flag. Mr. Johnstone asked the Board members if there was any issue with placing the Pledge of Allegiance on all future agendas to which the response was negative. Mr. Johnstone asked Mrs. Goodchild to add the Pledge of Allegiance to the agenda.

Mr. Frank Banisch was present and explained that the presentation tonight was one of a series of updates he will be providing. The purpose is to introduce the Highlands Model Element of the Municipal Master Plan. He added that it is from that document that the Township will draft and shape what will be submitted for Highland conformance. Mr. Banisch cautioned that the purpose of the meeting is informational, noting that he will not be recommending any course of action related to opting in. Mr. Banisch presented the attached power point. Following the presentation Mr. Banisch fielded the following questions:

During the presentation Mr. Banisch noted that the decision to opt in is broad based and therefore he suggested that the decision to opt in be based on a broad range of considerations, not just the COAH implication or value issues. He noted that Tewksbury is in a position to meet its COAH obligation without disrupting the community; Tewksbury has the most successful accessory apartment program in the State.

Mr. Johnstone thanked Mr. Banisch for his presentation and turned the meeting over to the Board for questions.

Mr. Mackie asked if the numbers presented are the final numbers to which Mr. Banisch responded in the positive however he did note the recent case in Burlington County which found that a municipality, which had met its fair share number, had to accept additional units.

Mr. Moriarty noted that it was useful to see the side by side analysis of COAH vs the Highlands and asked Mr. Banisch if he could prepare a side by side comparison of the restrictions (how opting in would compare to existing zoning). Mr. Banisch agreed to prepare that analysis. He noted that he has had many inquiries from large lot landowners regarding the restrictions. Mr. Banisch explained that whether you opt in or not, any development in the Planning Area that requires a DEP permit will have the Highlands Plan serve as the basis for the DEP review of that permit. So, whether you opt in or not DEP will review the permit as if the Regional Master Plan applies. Mr. Johnstone asked what the impact would be on large landowners. Mr. Banisch explained that it is a complex question, if the Township was looking at a method for creating an internal preservation program to preserve developments rights for farms in the Planning Area, it might prove beneficial by creating a farmland preservation opportunity that wouldn't exist otherwise.

Mr. Shapack noted that the numbers presume a certain number of residences being built or jobs coming in and the obligation is tied to that, but asked what happens if growth doesn't occur. Mr. Banisch explained that the obligation only extends to the actual growth; the current obligation is to forecast the growth.

Mr. Blangiforti noted that ground water has always been a concern and asked if there would be special consideration by COAH that the affordable housing obligation could impact our water supply. Mr. Banisch noted that COAH does not take that into consideration. Mr. Blangiforti asked Mr. Banisch to clarify the ordinances the Township will have to adopt. Mr. Banisch noted that the ordinance the Township has to adopt to conform in the Preservation Area is mandatory. If a Township chooses not to adopt that ordinance, Highlands will take back the Township's land use regulatory powers and basically take over for the Land Use Board. The second ordinance, which is optional, is the ordinance to opt in.

Mr. Shapack noted that after a decade accessory apartments can be rented at market rate and asked, if after the decade is up, the same unit can qualify as an affordable unit, to which Mr. Banisch responded in the positive, however, it will depend on what the rules are at the time the unit expires.

There being no additional questions from the Board, Mr. Johnstone opened questioning up to the public,

Joe Weber, 9 Dinner Pot Rd., asked how the build out can be determined in the Planning Area if the septic system requirements have not been established. Mr. Banisch explained that the Highlands Council refined the build out calculations by looking at the conditions that might preclude development; the numbers were not based on what the Regional Master Plan would require, it is more zoning based.

Frances Spann, Farmersville Rd., asked about the slide that showed the comparative policy area mapping, current zoning against the Highlands RMP. She noted that the area south of 78 is depicted on the map as Research Office/Mixed Use Zone, which is incorrect, it should be Piedmont underlying zone with an overlay of the Rockaway Village District. Mrs. Spann noted

that in his testimony Mr. Banisch referred to the Rockaway Village site as a prior third round site for COAH and asked him if, in his opinion, it is a viable project to be included. Mr. Banisch explained that he does not feel he can make that realistic recommendation. Mrs. Spann noted that it is her understanding that that plan, although it was submitted to COAH, was never substantively certified by COAH. She explained that when the Township proposed that site to satisfy the prior third round obligation Citizens to Save Tewksbury submitted an objection, that objection was never addressed or disposed of and the plan was never certified. She concluded by saying that she is concerned that this site is spoken about as if it is a certified site and it is her understanding that it never was. Mr. Banisch agreed to look into the matter. Mrs. Spann noted that page 3 of the draft Element references the draft ERI and asked if the Draft Highlands Element reflects the work that went into the ERI. Mr. Banisch explained that the Highlands Council suggested that the Township adopt the supplement to meet the conformance requirements for December. He added that the Highlands Council has indicated that they will be in a better position in future years to help fund the integration of the Township wide vs the Highlands ERI elements into a more complete document; currently it will not be integrated. Mrs. Spann noted that Goal No. 8 on page 4 of the document contains language to promote brownfield redevelopment and asked how relevant this is to Tewksbury. Mr. Banisch explained that these are the types of items that will be scrutinized when reviewed by the sub-committee. Mrs. Spann also recommended that the plan recognize the move from Planning Area 2 to Planning Area 5. Mr. Johnstone asked Mrs. Spann to submit all of her edits and recommendations to Mr. Banisch.

Robin Love, 7 Wildwood Road, explained that she has comments specifically related to the TDR portion of the plan (page 66 and 67). Mrs. Love asked if it is necessary for the Township to designate a receiving zone to have a sending zone. Mr. Banisch noted that the Highlands Council acknowledges that a municipality doesn't need to grow at all and that they want to use TDR throughout the Highlands where possible, he does not feel that they will require a program to be structured that way. He added that a key element to a TDR receiving area is good infrastructure. Given the Township is considering the TDR feasibility grant, Mrs. Love asked what areas of Tewksbury would be appropriate for voluntary receiving zone designation. Mr. Banisch explained that the biggest reason to do the study is to put that question under the microscope. One of the reasons to consider TDR would be so that the Township could create its own preservation program. Mr. Banisch agreed to get clarification on the TDR issue prior to the meeting on October 27th meeting. Mr. Johnstone encouraged Mrs. Love to submit any additional questions to Mr. Banisch.

Basil Hone, 18 King Street, noted that the area south of 78 is in the Protection Zone of the RMP and asked Mr. Banisch to confirm that no new sewer lines are permitted. Mr. Banisch explained that the policy would be not to extend infrastructure in those areas. Mr. Hone asked Mr. Banisch to clarify the December 8th deadline, specifically, does the municipality need to make a selection between the COAH projected build out and the Highlands numbers. Mr. Banisch responded in the negative. He explained that by December 8th you have to demonstrate what each of the numbers is but you don't have to elect by December 8th to opt in because of the number, the decision deadline is June, 2010. Mr. Hone asked Mr. Banisch to confirm this with Eileen Swan to which he agreed.

Tom Dillon, 37 Vlietown Rd., asked Mr. Banisch to research the deadline issue brought up by Mr. Hone and report back to the Board. Related to Module 6, Mr. Dillon explained that part of the Module 6 regulations would require fees for existing septic systems involving pumping every year as well as a fee for a permit. Mr. Banisch confirmed that that is part of one of the environmental ordinances for plan conformance. Mr. Johnstone pointed out that that goes to the

initial question posed by Mr. Moriarty, the risks of opting in vs the benefits. Mr. Dillon asked about the ability to opt out after opting which Mr. Banisch confirmed.

George Cassa, 14 Guinea Hollow Rd., asked if the TDR and the RAHDPP is the same thing, to which Mr. Banisch responded in the negative.

Mr. Moriarty left the meeting at this time (9:35 p.m.)

Chris Teasdale, 11 Dinner Pot Rd., expressed confusion related to the COAH numbers (the forever number vs 2018). Mr. Banisch explained that Highlands is indicating that the number we have is the forever number; COAH's number is through 2018 only.

Bob Flowers, Mountainville, asked what the advantages would be to the legal umbrella promised by the Highlands Council if the Township opts in. Mr. Banisch explained that municipalities have a very strong presumption of validity that attaches to the ordinances. Case law has proven that towns can adopt zoning similar to what Tewksbury has done and the courts will respect that. The Highlands Council is saying that when the demand of the RMP is placed on the land and a town is sued for that particular part of the zoning they will step in and defend at their expense. They also attach an enhanced presumption of validity.

Mr. Johnstone asked that anyone with comments on the draft Highlands Master Plan document send them to Mrs. Goodchild who will forward them to Mr. Banisch. The sub-committee will review them and if they are relevant bring them to the attention of the Board.

Hank Klumpp, noted that Tewksbury was not originally part of the Highlands and overnight the boundaries changed; he opined that the choice was political. Mr. Johnstone asked Mr. Klumpp to put his comments in writing and send them to the Land Use Administrator. Mr. Klumpp agreed and noted that the Highlands Council will eventually provide septic density numbers to the Township and asked how property owners will qualify for the density and who will assign the septic density. Mr. Banisch explained that during full conformance the Township will have to decide where the septic density rights get assigned. Mr. Johnstone reminded Mr. Banisch that this is an issue that needs to be discussed in more detail; if this is the impact of opting in it needs to be clearly depicted in benefits vs. detriment type comparison.

There being no further questions or comments from the Board or public, Mrs. Devlin and Mr. Johnstone commended the public for the time they spent researching the topic.

A sub-committee of Betsy Baird, Libby Devlin and Bruce Mackie was formed to review with Mr. Banisch the draft Highlands Element for the Master Plan. Mr. Banisch explained that he would like to get the written comments from tonight, integrate as much of those as possible, and have a revised draft to the Board in November. Mr. Banisch suggested posting revised drafts of the document on the Township webpage to which the Board agreed.

Mr. Blangiforti asked Mr. Banisch to provide a copy of the slide show presented to which he agreed. It was requested that the slide show be posted on the Township website as well.

Adjournment

There being no further business, the meeting adjourned at 10:00 p.m. by motion of Mr. Blangiforti and seconded by Mrs. Devlin.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator

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Land Use Administrator

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Land Use Administrator

STATE OF NEW JERSEY

HUNTERDON COUNTY

.....
Jill Machado, of full age, being duly sworn upon her oath,
saith: that she is connected with **THE HUNTERDON
COUNTY DEMOCRAT**, a newspaper published in
Hunterdon County, New Jersey; that a notice of which the
annexed is a true copy, was published on the

5th day of **November** A.D., **2009**,

in said newspaper and once a week thereafter successively,

in all week(s), viz.: upon

Jill Machado
.....

Sworn and subscribed before me this

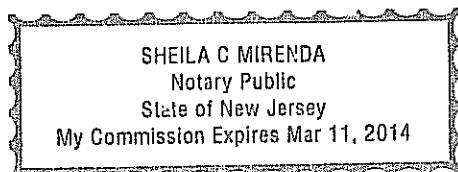
9th day of **November** A.D. **2009**

Sheila C. Mirenda
.....

Notary Public of N.J.

Sheila C. Mirenda

My Commission Expires March 11, 2014



**Tewksbury Township
Land Use Board**

PUBLIC NOTICE is hereby given that the Land Use Board of the Township of Tewksbury will conduct a public meeting to review and discuss the Draft Highlands Master Plan Element. The meeting will be held on Wednesday, November 18, 2009 at 7:30 p.m. in the Mountainville Meeting Hall, 60 Water Street, Mountainville (Lebanon). A copy of the Draft Highlands Master Plan Element is available for public review at the Office of the Land Use Board Secretary, c/o 169 Old Turnpike Road, Califon between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday.

Shana L. Goodchild
Land Use Administrator
Tewksbury Township

(Pr's fee \$19.94)

11/12/09

LAND USE BOARD AGENDA

November 18, 2009

7:30 p.m.

Call to Order

Roll Call

Open Public Meetings Act Statement

Claims – see back

Correspondence- see back

Minutes

➤ October 7, 2009

Ordinance Report

County Planning Board Update

Public Participation

Resolutions

- **Resolution No. 09-20** – Thomas, Appl. No. 09-07, Block 36, Lot 6 – Approval of Bulk Variances (Fence)
Eligibility: Mrs. Devlin, Mr. Mackie, Mrs. Czajkowski, Mr. Blangiforti, Mr. Moriarty, Mr. Shapack and Mr. Johnstone
- **Resolution No. 09-21** – Schmitt, Appl. No. ZBA03-17, Block 11, Lot 6 – Extension of Approval
Eligibility: Ms. Desiderio, Mrs. Czajkowski, Mr. Blangiforti, Mr. Kerwin and Mr. Johnstone

Draft Highlands Master Plan Element

Review and discussion of draft Highlands Master Plan Element (Module 5)

Adjournment

CLAIMS

1. Bernstein & Hoffman – Attendance at 11/4/09 LUB Meeting – invoice dated November 5, 2009 (\$400.00)
2. Bernstein & Hoffman – Land Use Board Escrow – Thomas (B36, L6) – invoice dated November 9, 2009 (\$330.00)
3. Banisch Associates, Inc. – Land Use Professional Services (Senate Bill 1303) – invoice #PO9-16197 (\$247.80)
4. Banisch Associates, Inc. – Land Use Professional Services (Impervious Coverage) – invoice #PO9-15046 (\$558.20)
5. Banisch Associates, Inc. – Land Use Board Escrow – Tourville (B45, L6.02) – invoice #P09-16199 (\$741.40)
6. Banisch Associates, Inc. – Land Use Board Escrow – Johnson (B23, L23) – invoice #P09-16198 (\$758.00)
7. Banisch Associates, Inc. – Land Use Board Escrow – Oldwick Animal Hospital (B45, L28) – invoice #P09-16080 (\$340.80)

CORRESPONDENCE

1. A copy of a letter dated November 4, 2009 from Kurt Senesky to NJDEP Division of Watershed Management regarding Connors Minor Subdivision, Block 12, Lot 29.03.
2. Notice of application to the NJDEP dated November 4, 2009 from Cranmer Engineering regarding Tewksbury Treatment Plant, Block 24, Lot 17.01.
3. A copy of the revised Draft Model Highlands Element for Municipal Master Plans.

LAND USE BOARD MINUTES
November 18, 2009

The Tewksbury Township Land Use Board met in a regularly scheduled meeting on the above date in the Municipal Meeting Hall, 60 Water Street, Mountainville, New Jersey. The meeting was called to order at 7:34 p.m.

Present: Chairman Blake Johnstone, Dana Desiderio, Committeeman Robert Hoffman, Mary Elizabeth Baird, Bruce Mackie, Elizabeth Devlin, Michael Moriarty (Alt. #1) arrived at 7:35 p.m. and Kerwin (Alt. #2) arrived at 7:40 p.m.

Also present: Shana L. Goodchild, Land Use Administrator.

Absent: Mayor Louis DiMare, Pino Blangiforti, Shirley Czajkowski, Arnold Shapack (Alt. #3) and Eric Metzler (Alt. #4).

There were approximately twenty (20) people in the audience.

OPEN PUBLIC MEETING ACT STATEMENT

Mr. Johnstone opened the meeting by announcing that adequate notice of the meeting had been provided by posting a copy thereof on the Police/Administration Building bulletin board, faxing a copy to the Hunterdon Review and the Hunterdon County Democrat, and filing with the Municipal Clerk, all on January 13, 2009.

PLEDGE OF ALLEGIANCE

Those present stood and pledged allegiance to the American flag.

CLAIMS

Mr. Johnstone asked the Board if there were any questions or comments regarding the following claims to which the response was negative. Ms. Desiderio made a motion to approve the claims listed below and Mrs. Devlin seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Attendance at 11/4/09 LUB Meeting – invoice dated November 5, 2009 (\$400.00)
2. Bernstein & Hoffman – Land Use Board Escrow – Thomas (B36, L6) – invoice dated November 9, 2009 (\$330.00)
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6. Banisch Associates, Inc. – Land Use Board Escrow – Johnson (B23, L23) – invoice #P09-16198 (\$758.00)
7. Banisch Associates, Inc. – Land Use Board Escrow – Oldwick Animal Hospital (B45, L28) – invoice #P09-16080 (\$340.80)

Roll Call Vote:

Ayes: Ms. Desiderio, Mr. Hoffman, Mrs. Baird, Mr. Mackie, Mrs. Devlin, Mr. Moriarty and Mr. Johnstone.

Nays: None

CORRESPONDENCE

Mr. Johnstone asked the Board if there were any questions or comments regarding the following list of correspondence to which the response was negative. A motion was made by Mrs. Devlin and seconded by Mrs. Baird acknowledging receipt of the following items of correspondence. All were in favor. Mr. Hoffman abstained as he did not receive item No. 4.

1. A copy of a letter dated November 4, 2009 from Kurt Senesky to NJDEP Division of Watershed Management regarding Connors Minor Subdivision, Block 12, Lot 29.03.
2. Notice of application to the NJDEP dated November 4, 2009 from Cranmer Engineering regarding Tewksbury Treatment Plant, Block 24, Lot 17.01.
3. A copy of the revised Draft Model Highlands Element for Municipal Master Plans.
4. A copy of a letter dated November 13, 2009 from Andrew Holt to Jesse Landon regarding the Highlands Council Model Ordinance for Municipalities.

MINUTES

➤ October 7, 2009

A motion was made by Mrs. Devlin and seconded by Mrs. Baird to adopt the minutes of October 7, 2009. All were in favor. Mr. Hoffman abstained.

ORDINANCE REPORT

Mr. Mackie had nothing to report.

County Planning Board Update

Before turning the meeting over to Ms. Desiderio for the County update, Mr. Johnstone welcomed the newly elected Township Committee members Dana Desiderio and Peter Melick.

Ms. Desiderio reported on the Guinea Hollow Bridge, to be open by November 24th or 25th. The Water Street bridge will not be open until mid December. The grading and intermediate pavement course at the 523 intersection will be complete by mid December; if all goes well the traffic light will also be installed but if not, not until Spring. Due to the weather the project will cease and restart in Spring.

Ms. Desiderio displayed a new Farmland Preservation map for Hunterdon County which shows all preserved land as of June 30, 2009. Hunterdon County has the highest number of preserved farms in the State of New Jersey, 304 farms, totaling 25,547 acres.

Ms. Desiderio reported on the County Breakfast talk held on November 13, 2009. The topic was traffic calming and she asked Tom Matthews, County Supervising Engineer, to look at a splitter at the entrance of County Route 517 where it goes from 55 mph to 35 to 25 coming into Oldwick. When asked, Ms. Desiderio described a splitter as a 2 foot wide landscaped island. The only cost to the Township would be the cost of the maintenance to the landscaping. Ms. Desiderio explained that if there is any interest at all by the Land Use Board she would be happy to provide the power point presentation to the Board meeting.

Ms. Desiderio also provided information on the Census 2010.

Public Participation

Mr. Johnstone asked the public if there were any questions or comments regarding anything not on the agenda to which the response was negative. Therefore, he closed the public portion of the session.

Resolutions

- **Resolution No. 09-20** – Thomas, Appl. No. 09-07, Block 36, Lot 6 – Approval of Bulk Variances (Fence)
Eligibility: Mrs. Devlin, Mr. Mackie, Mrs. Czajkowski, Mr. Blangiforti, Mr. Moriarty, Mr. Shapack and Mr. Johnstone

Mrs. Devlin made a motion to adopt Resolution No. 09-20, seconded by Mr. Moriarty. The motion carried by the following roll call vote:

LAND USE BOARD

TOWNSHIP OF TEWKSBURY

APPLICATION # 09-07

RESOLUTION #09-20

WHEREAS, ANTHONY and CHERRI THOMAS have applied to the Land Use Board of the Township of Tewksbury for permission to install a fence on their residential lot which is located at 29 Meadow Lane on property designated as Block 36, Lot 6, on the Tewksbury Tax Map, which premises is located in the FP (Farmland Preservation) Zone, and

WHEREAS, the application was reviewed by Land Use Board Engineer William H. Burr, IV, P.E. and

WHEREAS, the application was presented by Anthony Thomas at the November 4, 2009 Land Use Board meeting, and

WHEREAS, the subject property is located at the intersection of Bissell Road and Meadow Lane, and

WHEREAS, the applicants propose to install a six feet tall, open, aluminum, bronze colored, wrought iron style fence behind the tree lines in front of their property in order to keep animals off the property and keep their children within the lot, and

WHEREAS, Anthony Thomas testified that no trees would be removed with the installation of the fence, and that he had planted landscaping along the front of the property, and

WHEREAS, Section 719.B.1 of the Development Regulations Ordinance limits fences to a height of four feet in residential front yards, except deer fences which may be higher, and

WHEREAS, Township Zoning Officer Randall Benson testified that the rationale for Section 719.B.1 was to prevent visual barriers on residential lots, and

WHEREAS, the Board finds that the installation of the open fence behind the existing substantially wooded areas along the front of the property on both Bissell Road and Meadow Lane, as evidenced from the photographs attached to the application, show that the request will not violate the intent of the ordinance, and

WHEREAS, the Scenic Roads Commission in a letter to Chairman Johnstone dated October 29, 2009 stated that the proposed open fence was not inconsistent with the Scenic Roads Ordinance, and

WHEREAS, the proposed fence is substantially more attractive and less intrusive than a four foot tall stockade fence or a deer fence which could be constructed on the front yard of the Thomas property, and

WHEREAS, Ms. Yvonne Melfie, who lives across the street at 22 Bissell Road, attended the public hearing and testified that she did not find the fence to be offensive, and

WHEREAS, the requested variance is justified under N.J.S.A. 40:55D-70c(2) on the basis of advancing a purpose of the Municipal Land Use Law under N.J.S.A. 40:55D-2i by promoting a more desirable visual impact than a conforming, solid, stockade fence or a deer fence, and

WHEREAS, the benefits from the deviation substantially outweigh any detriments, and

WHEREAS, the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Township of Tewksbury.

NOW, THEREFORE, be it resolved by the Land Use Board of the Township of Tewksbury on this 18th day of November 2009, that the application of Anthony and Cherri Thomas be approved in accordance with a plan titled "PLOT PLAN AS-BUILT PLAN INDIVIDUAL SUBSURFACE SEWAGE DISPOSAL SYSTEM (MOUNDED/SOIL REPLACEMENT BED) LOT 6 BLOCK 36 TEWKSBURY TOWNSHIP HUNTERDON COUNTY NEW JERSEY" prepared by Apgar Associates and last revised August 19, 2003 with the location of the fence subsequently drawn on the plan, subject, however, to the following conditions:

1. The fence shall be an open, aluminum, wrought iron style, bronze colored fence placed behind the wooded areas as depicted on the plan. Any replacement fence shall comply with these requirements.
2. No trees shall be removed with the installation of the fence, or any replacement fence.
3. The fence must be installed within one year from the date of this memorialization resolution or the variance shall be void and have no further effect.

4. The applicants shall comply with all rules, regulations, ordinances and statutes of the Federal, State, County and local municipal governments that may apply to the premises. The applicants shall submit a letter to the Land Use Administrator certifying compliance with the aforementioned rules, regulations, ordinances and statutes.

Roll Call Vote

Those in Favor: Mrs. Devlin, Mr. Mackie, Mr. Moriarty and Mr. Johnstone

Those Opposed: None

- **Resolution No. 09-21** – Schmitt, Appl. No. ZBA03-17, Block 11, Lot 6 – Extension of Approval

Eligibility: Ms. Desiderio, Mrs. Czajkowski, Mr. Blangiforti, Mr. Kerwin and Mr. Johnstone

Ms. Desiderio made a motion to adopt Resolution No. 09-21, seconded by Mr. Kerwin. The motion carried by the following roll call vote:

LAND USE BOARD

TOWNSHIP OF TEWKSBURY

APPLICATION ZBA #03-17

RESOLUTION LUB #09-21

WHEREAS, FRANCES SCHMITT had applied to the Board of Adjustment of the Township of Tewksbury, a predecessor to the Land Use Board, for permission to construct a home on property off of Sutton Road designated as Block 11, Lot 6 on the Tewksbury Tax Map, and for a lot depth variance for property which was located in the R-3 Zone, and is now located in the HL (Highlands) Zone, and

WHEREAS, the subject property had access to Sutton Road by way of what was described as "*Existing Old Woods Road (Driftway) for ingress and egress*" on a survey, but lacks direct access to a public road contrary to N.J.S.A. 40:55D-35 & 36, and

WHEREAS, the application was approved and a memorialization resolution was adopted on April 19, 2004 which permitted the construction of a home on the subject property which does not front on a public road, and for a depth variance, subject, however, to the following conditions:

"A. The developer of Lot 6 shall be responsible for any damage done to the right of way during construction on lot 6. Thereafter, the parties shall enter into a maintenance and upkeep agreement for all the lots served by the common drive including lot 6, lot 5.02 and lot 5.03. The Zoning Officer shall approve the maintenance agreement before it is recorded with the County Clerk of Hunterdon County. Furthermore the common drive shall be upgraded to Township standards to lot 6 through lot 5.02. The Township Engineer shall have final authority over this

matter and the applicant or her successor in interest shall be required to make the improvements prior to the issuance of a building permit.

B. Finally, the Applicant shall submit the responses from the fire department and the police department relating to the notices sent regarding the common drive before a building permit shall be issued.

C. The approval must be utilized within one year from the date of this memorialization resolution or the variance shall be void and have no further effect."

AND, WHEREAS, the applicant obtained a one-year extension to perfect the aforesaid conditions from the Board of Adjustment to April 19, 2006, and

WHEREAS, the applicant has not met the conditions in the resolution, and

WHEREAS, Condition C in the resolution and the Tewksbury Township Development Regulations Ordinance require variances to be acted upon within one year, or they will expire, and

WHEREAS, the applicant has sought an additional extension of her approval from the Land Use Board, and

WHEREAS, the request for an extension was presented by Attorney Meryl A.G. Gonchar, Esq. of the firm of Greenbaum, Rowe, Smith & Davis at the October 21, 2009 Land Use Board meeting, and

WHEREAS, Ms. Gonchar noted that the applicant's prior counsel had not obtained the maintenance and up-keep agreement required in Condition A in the memorialization resolution, and

WHEREAS, Ms. Gonchar sought a multiple year extension of the aforesaid approval, and

WHEREAS, Ms. Gonchar acknowledged that the applicant would be required to meet the present requirements of the HL Zone, aside from the relief previously granted, and

WHEREAS, Edward Johnson of 12 Glennon Farm Lane attended the extension hearing, and did not object to the requested extension, and

WHEREAS, the Land Use Board finds that the extension request is warranted.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 18th day of November 2009, that the application of Frances Schmitt for an extension of her Board of Adjustment approval to October 21, 2010 be granted, subject, however, to the following conditions:

1. Conditions previously imposed by the Board of Adjustment.
2. Any construction on the subject property would be required to meet all provisions of the HL Zone (unless variance relief is obtained from same) aside from the relief previously granted.

Roll Call Vote

Those in Favor: Ms. Desiderio, Mr. Kerwin and Mr. Johnstone

Those Opposed: None

Draft Highlands Master Plan Element

- Review and discussion of draft Highlands Master Plan Element (Module 5)

Mr. Johnstone indicated that Mr. Frank Banisch, Township Planner, would be outlining some of the information he previously presented and also discuss some additional questions that have been sent in by residents. At the conclusion of Mr. Banisch's presentation the meeting will be open for questions. At the conclusion of questions by the public and the Board the meeting will be open for comments.

At 7:57 Mr. Banisch began his presentation by noting that the Board received a number of written comments and suggestions about specific aspects of the draft language of the Draft Highlands Master Plan Element. He noted that some of those changes have been incorporated and others are still to be incorporated; the sub-committee will ultimately see the revision that contains those comments as well as comments from tonight's meeting. Mr. Banisch went on to present the attached power point, noting that Tewksbury has had two (2) official meetings on the draft Highlands Master Plan Element, tonight being the second.

Mr. Banisch concluded his presentation at approximately 8:25 p.m.

Mr. Johnstone opened the meeting up to questions from the Board.

Mr. Johnstone asked if there is a reduction in the usability of the lots that currently exist in the Preservation Area. Mr. Banisch explained that the lots are protected if they existed on August 10, 2004. Referencing the Planning Area, Mr. Johnstone asked if there a reduction in the usability of the lots that exist in the Planning Area if the Township opts in, to which Mr. Banisch responded in the negative.

Mr. Hoffman asked about the change in ownership of those lots. Mr. Banisch explained that a lot can be sold and used by someone else by qualifying under a different exemption; there are certain restrictions that come with that particular exemption (limits on disturbance and limits on coverage).

A lengthy discussion ensued regarding the septic densities in the zones within the Planning Area (as outlined in the power point presentation).

Mr. Johnstone, speaking about the entire stretch of land south of Route 78, asked about the viability of that area for COAH housing. Mr. Banisch noted that most of the Springfield Farm portion of the Bellemead holdings is relatively developable; the lands further south are more constrained. Mr. Johnstone expressed concern about the recent Homes of Hope court decision and its ramifications on towns such as Tewksbury. Mr. Bernstein opined that Tewksbury is not in as much risk as other towns with infrastructure, etc.

Mr. Mackie asked about the septic densities and if that will change if the Township opts in. Mr. Banisch explained that until full conformance the septic density numbers provided are capacity numbers only, noting that if an application for subdivision is submitted the day after a petition to conform is filed an applicant will be required to perform site specific analysis to determine development capacity of the property; the numbers displayed tonight should only be used for broad planning purposes.

Mr. Moriarty asked if the density requirements apply to the lots that existed as of 2004 to which Mr. Banisch responded in the negative, noting that the septic density only applies to someone wishing to subdivide land.

Mr. Kerwin asked what will become of the grant money if the township opts in and at a later date opts out. Mr. Banisch explained that according to the Highlands Act there is language that may require that a municipality reimburse the Highlands Council in whole or in part for any financial assistance. Mr. Banisch noted that Highlands Staff has not communicated that to the towns or its professionals. Mr. Banisch clarified that the financial assistance that has been used for the modules does not have to be reimbursed.

Mr. Johnstone asked about the TDR grant study. Mr. Banisch explained that TDR is a planning technique that allows you to move permitted development from one location to another. In the Highlands, it is a system that has been set up to retire development in the areas they intend to protect and allow it to be moved to areas intended for growth. Since the Highlands Plan is not a growth plan the only way there will be growth areas is if towns, as they choose to opt in, decide to designate certain areas for growth. Mr. Johnstone asked if the TDR Study grant could be used to investigate options south of Route 78 to which Mr. Banisch responded in the positive. Mr. Johnstone asked if the Township is obligated to do TDR if they utilize the grant money, to which Mr. Banisch responded in the negative. Mr. Banisch cautioned the Board regarding the area "south of Oldwick" or "south of Route 78" as Highlands has labeled that a Protection Zone. Mrs. Devlin asked if the TDR is within Tewksbury Township to which Mr. Banisch responded in the positive.

Mr. Kerwin asked if it is true that COAH will dictate where low and moderate housing will be located. Mr. Banisch clarified that it will likely be that studies will show where housing can't be located.

Mr. Moriarty asked what factors went into the determination of septic densities for the NJDEP septic densities and the Highlands septic densities (25 and 88 acres). Mr. Banisch explained that the 25 and 88 acre density is different from the science that applies to the HUC14 DEP designations. The biggest difference is the Township's Master Plan made an accounting for land use and land cover as a cultural element of the landscape. The Highlands factored in water capability.

Ms. Desiderio asked if it is better to separate the conformance decisions for the Preservation and Planning Areas. Mr. Banisch noted that on Oct. 27, 2009 he was asked his recommendation about filing a single petition to which he recommended submitting a complete petition for the entire town so that the town is in line to receive information about opting in. He concluded by saying he feels it is well advised to submit a complete package for the entire township.

Mr. Hoffman asked if, under the TDR program, development rights could be transferred out of the municipality, to which Mr. Banisch responded in the positive.

There being no additional questions from the Board, Mr. Johnstone opened the meeting up to the public for questions (at 9:10 p.m.).

Mr. Elliott Ruga, NJ Highlands Coalition, referenced the Homes of Hope litigation and noted that if Tewksbury conforms in both the Preservation and Planning Areas it will receive the benefit of the State's legal shield and presumption of validity. Mr. Banisch noted it was a good point, noting that Tewksbury would be in a difference category than townships that chose not to conform. Mr. Bernstein opined that the Highlands protects a town's zoning, the Homes for Hope

case was under a variance which is a different situation; he was unsure if the Highlands would defend a township for every variance.

Mr. Ruga referenced the 348 units of total affordable housing projected by COAH and asked how many units of market rate would be necessary. Mr. Banisch responded by saying five times that number, approximately 1500 units.

Mrs. Devlin left the meeting at approximately 9:12 p.m.

Mr. David Cohen, Cold Spring Road, asked if opting would impact the existing permitted uses in the Township's zoning ordinances. Mr. Banisch responded in the positive and explained that conformance would involve a series of adjustments including revisions to the zoning ordinance.

Mr. Basil Hone, 18 King Street, referenced Springfield Farm and asked Mr. Banisch to confirm that it is encumbered by the Highlands Protection Zone, to which Mr. Banisch responded in the positive. When asked if the Protection Zone still applies regardless of opting in, Mr. Banisch explained that if NJDEP was required to review permits in the Protection Zone they would apply the policies of the Highlands Plan that apply in the Protection Zone when evaluating that permit.

Ms. Frances Spann, Farmersville Road, noted that it is her understanding that if the Township opts in, landowners in the Planning Area could request that their land become sending areas. Mr. Banisch explained that the idea of TDR is to try to find a balance between a sending area and a receiving area. He added that Eileen Swan has said we could create a sending area without a receiving area. Ms. Spann asked for clarification that in order for Tewksbury to benefit from TDR the Township does not have to have an in-house receiving area, to which Mr. Banisch responded in the positive, adding that as long as the Highlands has identified a receiving area within the Highlands Region.

Ms. Robin Love, 7 Wildwood Road, asked if it is necessary for the Township to do any TDR study in order for landowners within the sending zone to benefit. Mr. Banisch responded in the positive and explained that the Highlands have or will define the sending zones.

Mr. Peter Melick, Joliet Street, asked if all of Tewksbury is within the Agricultural Resource Area. Mr. Banisch noted that all but a small portion is in the Ag. Resource Area. When asked if there is Forest Resource Area, Mr. Banisch responded in the negative. Mr. Melick opined that there is preserved farmland in the area that is not within the Ag. Resource Area and asked Mr. Banisch to get clarification on that issue to which he agreed. Mr. Hoffman, using one of the Highlands maps, pointed out that 2/3rd of the Preservation Area is in the Forest Resource Area. Mr. Banisch stood corrected and clarified that assessment based woodland management is permitted in the Forest Resource Area for farmland assessment. Mr. Melick asked Mr. Banisch to confirm that with the Highlands Council. Mr. Melick asked how the Highlands accounts for non-residential septic systems to which Mr. Banisch explained it is based on floor area. Mr. Melick asked Mr. Bernstein if the Highlands exemptions would stand up in court to which Mr. Bernstein opined that they would but it has not been challenged.

Mark Nowell, Oldwick Road, asked if there is a breakdown to show that there may not be as big of an impact on landowners. Mr. Banisch explained that because so much of the farmland is qualified woodlands and under woodland management it is reasonable to conclude that most of the larger agricultural parcels being farmed will see a minimal impact. Mr. Nowell asked if the June deadline is a hard deadline. Mr. Banisch explained that the Executive Director of COAH has been ambiguous about whether towns could count on getting that number at a later date, basically it sounds like a limited time offer until June, 2010.

Mr. David Barnes, Fairmount Road East, asked Mr. Banisch how a COAH plan is prepared for an obligation the Township feels will not need to be met. Mr. Banisch explained that COAH pulled into its vacant land analysis cemeteries, highway median strips and the back yards of residential lots and so they have, in the Township's opinion, over estimated the vacant land considerably. They also projected ½ acre lots as being typical so they arrived at unrealistic numbers.

Mr. Hank Klump, Longview Road, asked about Independence Township opting out and what the ramifications will be. Mr. Banisch explained that the Highlands will take over the development review capabilities for Independence Township Land Use/Planning Board. With regard to COAH, Mr. Klump asked if the Township can move 50% of its obligation out of town. Mr. Banisch responded in the positive and noted that whether to move any obligation out of town will be decided at a later date when the plan is prepared.

There being no further questions from the public, Mr. Johnstone closed the meeting to the public for questioning.

Mr. Mackie noted that the Township will need to write conforming ordinances and asked when they will be written and the process. Mr. Banisch explained that as part of the review the Highlands will prepare a detailed report of the petition and a recommendation as to whether or not the Township should be certified.

At 9:57 p.m. Mr. Johnstone opened the meeting up to the public for statements.

Mr. Elliott Ruga, NJ Highlands Coalition, noted that there are waivers in the Highlands Act that may apply to lands subdivided between 2004 and present to avoid the taking of property values. Mr. Ruga commented on the Independence Township action and opined that their action is illegal and their land use powers will be taken away. He added that the Highlands Council will not rule on any development applications and will be send them back to Independence thereby creating a circular process and no growth or development will occur.

Mr. Basil Hone, 18 King Steet, suggested for efficiency sake to file the petition for both the Preservation and Planning Area. Mr. Home also distributed written comments on the Draft Master Plan Highlands Element.

Mrs. Wilma Frey, Water Street, encouraged the Board to do what is necessary to indicate interest in conformance for the entire Township.

Ms. Frances Spann, Farmersville Road, encouraged the Board to consider full conformance of the Town. Related to the township's COAH obligation, she opined that the challenging task will be to come up with a plan that will result in constructed units on the ground at the same time having those units reflect the character of Tewksbury.

Robin Love, 7 Wildwood Road, agreed with the comments by Mr. Hone, Ms. Spann and Ms. Frey.

Mr. Mark Nowell, Oldwick Road, encouraged the Board to stay on the path of opting in since it is non-binding.

Mr. Peter Melick, Joliet Street, noted that with the new Governor taking over in January one of his objectives was to stop unfunded mandates. Mr. Melick opined that there will be big changes

and that the Township should take a wait and see attitude. Mr. Melick noted that farmland preservation is over in the Highlands area because the dual appraisal method expired in August so it is no longer viable for property owners. Mr. Melick recommended that the Township not move forward until that method is renewed.

Mr. Hank Klump, Longview Road, read the following statement into the record: *Opting in to the Highlands for the Preservation and Planning Area is another bureaucratic move to take away people's rights. Tewksbury has conformed to all the State requirements including the hydrogeology analysis and the COAH requirements which has changed our requirement from 3 to 12 acres to discourage development. Why should we even be sitting here considering this matter when already the State is telling us what we can do and can't do with our properties? Farmers are now being punished for keeping their beautiful land over the many generations. They are being punished by a loss of equity and that's money. The 13,475 acres of land now in the Highlands Preservation in Tewksbury is the land everyone who is living on a building lot loves and enjoys the view and the beauty. Farmers have been stewards of this land for generations. Farmlands are family investments with real estate value taken away. What does the farmer do when he can't farm anymore? How can a Township turn its back on people who have invested a lifetime in the land that has had its real estate value taken away by an Act that was never to harm anyone and yet passed without one sentence to compensate people for their losses; it's about 15 billion dollars. Originally I was told that the scientific study that put my farm in the Highlands Preservation Area now, 5 years later, I have yet to be shown the study that I have requested to see. Now I'm being told that maybe it wasn't determined by the scientific study but by politics, all politics. Tewksbury was not even part of the Highlands when I was shown the first map. The lines were erased and moved and then Tewksbury was in the Highlands and 13,475 acres were put in the Preservation Area. How can the Township allow this to happen I ask you? I'll tell you how, if you haven't owned a farm for generations you just don't care or understand. People around the corner from my farm never even heard of the Highlands Act. Why? It doesn't affect them. The State, for 5 years now, has not lived up to their obligation to find a dedicated funding source to compensate the landowners for the land values taken from the Highlands. Will they ever? Once there was a dual appraisal from 2004 to the present time, now there is not. So, land in the Preservation Area will have no real estate value or equity. How can the Township opt in to this plan now not knowing what the future holds? There are too many unanswered questions. The Highlands Council and the COAH seem not to be living with the same set of rules. The Tewksbury Agriculture Advisory Committee in 2008 said Tewksbury should opt out of the Highlands all together. Why isn't anyone listening to them on this Board or the Township Committee?*

Mr. Klump thanked the Board for allowing him to speak.

Mr. Johnstone noted that Mr. Klump has been a loyal advocate for the farmers and the statements don't go unheard.

There being no additional comments from the public Mr. Johnstone closed the public comment period at 10:15 p.m.

Mr. Johnstone thanked Mr. Bansich for his presentation tonight and the information presented at previous public meetings. Mr. Johnstone explained that the Land Use Board needs to make a recommendation to the Township Committee and the Township Committee will ultimately have the final decision. Mr. Johnstone suggested recommending continuing the process of opting in. He explained that he is not necessarily agreeing that the Township should opt in at the June of 2010 deadline but should continue down the path of opting in to gain the information necessary to make an educated decision in June. Currently there is no harm in looking into all ramifications before the final decision is made. Mr. Johnstone expressed concern about the

Township's future beyond 2018 and the need for schools and what impact that will have on local taxes. If development occurs, even on the lots that currently exist, it is likely that another grammar school will need to be built. If we take away all possibilities for ratables by opting everything in there will be no way to pay for education except through taxes. Mr. Johnstone feels that the Township needs to consider the impact on the large lot landowners. Secondly, Mr. Johnstone recommended that the Township pursue the TDR Feasibility Grant, specifically the area south of Route 78.

Mrs. Devlin noted that she is disappointed that because she had to leave the room that she is not able to vote but that she has been sitting on the sub-committee and is familiar with the issues. She agreed with Mr. Johnstone's statement to opt the Planning Area into the Regional Master Plan. She noted that she is not as concerned about the future as Mr. Johnstone because there is always the opportunity to opt out. As for the TDR Feasibility Grant, she encouraged the Township to utilize the funding.

Mrs. Baird agreed with Mr. Johnstone and both of the recommendations. She noted that the Township should not allow COAH to drive the decision.

Mr. Hoffman indicated that he is reserving his comments for Monday.

Ms. Desiderio opined that opting in the Planning Area to the Regional Master Plan is the right path for the Township. She stated that preserving Tewksbury for future generations is important.

Mr. Mackie stated that he sees no harm in moving forward and that the recommendation should be that the Township Committee move forward.

Mr. Kerwin noted that he thinks the Township should opt out the Planning Area; he believes we should keep local control. Mr. Mackie was not in favor of taking money from the State to do feasibility studies, the township should pay for them if they are to be done.

Mr. Moriarty asked if the Land Use Board will have the opportunity in June of 2010 to comment. Mr. Bernstein opined that the Land Use Board could gratuitously make a recommendation. Ms. Goodchild opined that the Land Use Board would be given that opportunity next year.

Mr. Johnstone made a motion to recommend to the Township Committee the following: 1) move forward with the application for opting in both the Preservation Area and the Planning Area for the purposes of keeping our options open, and 2) reconsider and accept the TDR Feasibility Grant in the amount of \$25,000 and 3) that the Land Use Board be given the opportunity in the Spring of 2010 to revisit the issue and make an additional recommendation to the Township Committee. The motion was seconded by Ms. Desiderio. The motion carried by the following roll call vote:

Ayes: Ms. Desiderio, Mrs. Baird, Mr. Mackie, Mr. Moriarty, Mr. Johnstone

Nays: Mr. Kerwin

Abstentions: Mr. Hoffman

Mr. Johnstone thanked the audience for their participation during the meetings.

Adjournment

There being no further business, the meeting adjourned at 10:31 p.m. by motion of Ms. Desiderio and seconded by Mrs. Devlin.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator