

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MINUTES OF THE MEETING OF MAY 19, 2011

**PRESENT**

JACK SCHRIER	)	ACTING CHAIRMAN
KURT ALSTED	)	COUNCIL MEMBERS
TRACY CARLUCCIO	)	
BILL COGGER	)	
MICHAEL FRANCIS	)	
ROBERT HOLTAWAY	)	
JANICE KOVACH	)	
MIMI LETTS	)	
CARL RICHKO	)	
JAMES VISIOLI	)	

**ABSENT**

GLEN VETRANO )

**CALL TO ORDER**

The Acting Chairman of the Council, Jack Schrier, called the 104<sup>th</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 1:05pm.

**ROLL CALL**

Roll call was taken. Messrs. Vetrano and Alstede were absent. All other Council Members were present.

**OPEN PUBLIC MEETINGS ACT**

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

**PLEDGE OF ALLEGIANCE** was then recited.

**APPROVAL OF MINUTES OF MARCH 17, 2011**

*Ms. Kovach introduced a motion to approve the minutes. Ms. Letts seconded it. Messrs. Vetrano and Alstede were absent. All other members present voted to approve. The minutes were APPROVED 9-0.*

**ACTING CHAIRMAN'S REPORT**

Acting Chairman Schrier had no particular report but invited members of the Council to comment on the recent to nominations.

Ms. Kovach promised that this would be her last going away speech as she gave one in February which was more personal. This time she noted some of the accomplishments of the Council over the past seven years. Ms. Kovach is currently serving the seventh year of her three year term and stated that it had been a pleasure to serve on the Highlands Council. Ms. Kovach continued on with

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some of the Council's accomplishments. Out of the eighty-eight municipalities in the Region, to date, 60 municipalities have submitted a Petition to conform. This level of implementation of the Highlands Act presently results in 97 percent conformance in the Preservation Area and 32 percent conformance in the Planning Area. Ms. Kovach further noted that Section 10 of the Highlands Act set for the primary goal of the Regional Master Plan "to protect and enhance the significant values" of the resources of the Highlands. Protecting the State's drinking water supplies and natural resources of the Highlands is occurring through municipal conformance in both the Preservation and Planning Areas.

The Highlands Act, in Section 10, also requires the encouragement of appropriate patterns of development, redevelopment, and economic growth. Ms. Kovach noted that Council and staff have begun working with the Economic Development Authority to move development and redevelopment forward. Ms. Kovach further noted that Byram Township was the first municipality to conform and the first Highlands Village Center designation. Additional municipalities who are seeking Highlands Center designations include Phillipsburg, Hackettstown, Oxford, and Washington (Morris).

Regarding land preservation and land owner equity of the 290,214 acres preserved in the region, 255,537 acres are open space lands and 34,677 acres are preserved farmland. A total of 7,690 acres have been preserved since the adoption of the Regional Master Plan in July 2008. Ms. Kovach also noted that on average, the per acre values for Highlands closings under farmland preservation since the passage of the Highlands Act is \$9,816. In closing, Ms. Kovach stated that this Council has been under scrutiny from the moment the legislation was first talked about all through the public hearings and when the Act was finally passed, but the one thing that this Council has always done is to provide a commitment to transparency and for all of those efforts Ms. Kovach thanks the staff and this Council for being a part of it as it has changed the way we will look at land use planning going forward.

Ms. Letts also wanted to make parting statements. She commented that as she looks at all the maps on the walls she reflects on a time Council did not have a computer and not one bit of data relating to the Highlands. Ms. Letts stated that Council has by far the most detailed and scientific database regarding the geology, geography and other pertinent information about the New Jersey Highlands that has ever been collected. This is one of the reasons that Council were able to so successfully develop a well balanced RMP which clearly protects our water but also recognizes the need for economic viability in the area. The Council has sought to protect and help promote agriculture in the Highlands Region and also encourage redevelopment of brownfields and development of town centers that will provide not only economic stimulus but also promote a sense of community.

Ms. Letts noted that the 15 member Council was not always in total agreement on some aspects of the RMP. However, members listened to hundreds of hours of public comments, discussed issues for many hours more and took a vote and shook hands no matter how the vote went or how much disagreement there was. She stated that maybe some of our governments these days should follow that example. There is one issue that the Council has not resolved completely and that is the equity issue. The TDR program is working on it but that is a slow process especially now with the real estate downturn and difficulty finding receiving areas. The Council has on more than one occasion petitioned the Legislature and others at the State level to enact a water fee that would help and require those residences that are benefiting from the efforts of the Highlands to protect their water

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which they would pay a fee. Ms. Letts would like to encourage the remaining members and those that will be coming after her to continue to petition the Legislature on behalf of that effort. Lastly, Ms. Letts commented that none of this would have been possible without the extraordinary efforts of a very talented staff who given far more effort than is expected. The Council was only the overseer, but the staff makes it happen. Ms. Letts feels very fortunate for having been a small part of this incredible accomplishment.

In his departing remarks, Mr. Cogger first observation was about the Highlands staff. As Treasurer and landlord (as the Mayor), he is often in the building and staff is always in the building working and this is something you do not often see in any environment, whether public or private. He expressed the pleasure it has been working with the staff. On a process level, most governments talk about open government, OPRA, and provide people with the right to speak and right to confront and the Highlands Council actually does it. Anyone can come to the office within reason and ask what their issues are, they can do it in a public forum with the press present and all of our material is on the website. That should be something that government replicate and it should not be just in this region. Mr. Cogger commented that he has frustrations about the Highlands Act and thinks landowner equity is something the Legislature should have provided for and they also should have provided for downstream conservation. Mr. Cogger stated that the Council needs to redouble their efforts and he thinks he speaks for most Council Members on that issue. Lastly a little bit about what we hear in the press about the people being nominated for the Council. The Council is a diverse body and has lots of opinions but Council is not a legislative body and cannot change what the Legislature put in the Act. Mr. Cogger further stated that he would be very shocked and disappointed if a Governor who has had such an argument with the State Supreme Court about legislative issues would appoint people to undermine the Act.

Acting Chairman Schrier commented on his own behalf that it is a great honor to serve on the Highlands Council and Highlands Task Force. It is a cause in which he believed before the Task Force, while on the Task Force and continues to believe while serving on the Council. Acting Chairman Schrier comments that Council has its critics and he understands that Council cannot change certain things. Council can listen and plea on your behalf but cannot make those changes that many seek and because of that we regret that but it is beyond Council's realm.

**Resolution - Approval of Audit Reports and Executive Order 37 Annual Reports**

Acting Chairman Schrier stated that Council has before them a resolution for the approval of audit reports for fiscal years 2009 and 2010 and Executive Order 37 reports. Executive Order 37 requires an annual report on operation and finances be approved by the Council submitted to the Governor's office. Our Audit Committee is led by Council Member Glen Vetrano and Mr. Schrier understands that he has spoken to the auditors. Mr. Schrier asked Ms. Swan to further discuss this resolution for the Council's consideration.

Ms. Swan reported that Glen Vetrano, Acting Chair of the Audit Committee, came into the office May 18th to review the two audit reports. Those reports were also sent to Beth Gates, Director of Finance and Administration at New Jersey Water Supply Authority who has served as an advisor to the Audit Committee since its inception. Ms. Gates reviewed those reports on May 9, 2011 and sent Ms. Swan an email that the reports were in order and congratulating the Council. Ms. Swan commented that in accordance with Executive Order 122, Mr. Vetrano is required to have a

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meeting/conference call with the auditors. On May 18, 2011 at 3:00pm Mr. Vetrano had a private conference call with Ann Zawartkay of Mercadien and furnished a report to Council which states: "I, Glen Vetrano as Acting Chair of the Audit Committee, recommend the Highlands Council accept and approve the audit reports for fiscal years 2009 and 2010". Ms. Swan further noted that this resolution also approved the Council Annual Report which Council previously saw as well as recommending that Council accept and approve the audit reports consistent with the directive of Executive Order 37.

Acting Chairman Schrier asked if there were any recommendations or comments in the audit reports. Ms. Swan responded to say there were no comments or recommendations in the audit reports. Acting Chairman Schrier then asked for a motion on the Resolution.

*Mr. Visioli made a motion on the Resolution. Mr. Holtaway seconded it.*

**Public Comment**

No public comments.

*All members voted on the Resolution by roll call. Messrs. Vetrano and Alstede were absent. The Resolution was APPROVED 9-0.*

**EXECUTIVE DIRECTOR'S REPORT**

Ms. Swan began with a PowerPoint presentation and noted that the cover of the presentations for each meeting displays the cover of the RMP and photos of the towns that the Council will consider for that meeting. Staff member Nathan McLean takes all these photos and it is part of the care and responsibility of the Council to understand the municipalities and to take the time to get to know them. The presentations are designed to examine that character of each of the communities whose Petitions the Council are considering.

**Plan Conformance Update**

Ms. Swan gave a brief summary update to the Council on Plan Conformance Petition reviews. To date 65 Petitions (from 60 Municipalities and 5 Counties) have been submitted to the Highlands Council (52 have been deemed administratively complete and posted to the Highlands Council website - including 2 Counties). Of these, nineteen Petitions have been approved (Townships – Bethlehem, Byram, Chester, Denville, Green, Lopatcong, Mahwah, Mount Olive, Rockaway, Tewksbury and West Milford; Boroughs – Califon, Glen Gardner, Hampton, High Bridge & Lebanon; Towns – Clinton; and Passaic and Somerset Counties). On today's meeting agenda are Washington Township, Morris; Holland Township, Hunterdon; Kinnelon Borough, Morris; Franklin Township, Warren.

There are eleven municipal response periods underway for municipalities (Town of Hackettstown; Townships – Lebanon, Parsippany-Troy Hills, Pohatcong and Sparta; Boroughs – Alpha, Bloomsbury, Bloomingdale, Oakland, Ringwood and Wharton).

Ms. Swan noted that we are beginning to see a trend with municipalities who originally petitioned for the Preservation Area are now deciding to petition in the Planning Area, such as Oxford Township, Hackettstown and Randolph Township. Ms. Swan then showed 5 maps which show the progress of Highlands Council's nineteen approved Petitions. The fifth map showed the

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municipalities under Council's consideration today and, if approved, will take effect after the Governor's review period.

**Plan Conformance Grant Program Update**

Ms. Swan then presented a chart which showed the average amounts requested for reimbursement by municipalities that are participating in Plan Conformance grant activities. She noted that this analysis has been updated to include the average costs associated with the Municipal Response Period. Ms. Swan advised the Highlands Council that on average the expenses of the seven Modules are very close to the projected base amounts as set forth in the chart.

<u>Towns</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,830	71
Module 2	\$10,000	\$ 6,704	70
Module 3	\$ 7,500	\$14,055	57
Module 4	\$ 2,000	\$ 3,177	60
Module 5	\$ 2,500	\$ 6,688	53
Module 6	\$ 5,000	\$ 4,332	50
<u>Module 7</u>	<u>\$ 8,000</u>	<u>\$ 7,349</u>	47
Module Subtotal	\$50,000	\$56,135	
<u>Municipal Response Costs</u>	<u>\$ 8,000</u>	<u>\$ 8,458</u>	15
<b>Plan Conformance Cost</b>	<b>\$58,000</b>	<b>\$64,593</b>	

**Public Hearing and Consideration of Resolution – Petition for Plan Conformance by Washington Township, Morris County**

Acting Chairman Schrier recognized Mayor Kenneth Short of Washington Township and offered him the opportunity to speak on behalf of the Township's Petition for Plan Conformance. Mayor Short decided to speak after Ms. Swan's presentation.

Ms. Swan acknowledged Washington Township's representatives present at the meeting, including: Mayor Kenneth Short, Diane Gallets, Township Administrator; Deborah Burd, Assistant Township Administrator; Cristianna Cooke-Gibbs, Health Officer; Michael Pucilowski, Executive Director of MUA; and David Banisch, Professional Planner.

*Mr. Alstede joined the meeting at 1:35pm.*

Ms. Swan then proceeded with the PowerPoint presentation of the Washington Township Petition for Plan Conformance. She presented photographs of Washington so the Council could focus on the character of the community and the past planning and protection initiatives of Washington Township. Ms. Swan presented background statistics and information for Washington Township.

- Incorporated: 1798
- Population (2009 est.): 18,422
- Land Area: 28,726 acres / 44.9 sq. mi.
- Preserved Lands: 8,382 acres
- Wetlands: 3,987 acres

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- Total Forest: 14,702 acres
- Farmland: 5,269 acres

Ms. Swan presented significant Highlands statistics as they pertain to Washington Township:

- Preservation Area Lands: 25,235 acres – 88%
- Planning Area Lands: 3,491 acres – 12%
- Protection Zone – 16,255 acres – 57%
- Conservation Zone – 7,607 acres – 26%
- Existing Community Zone – 3,853 acres – 13% (Roads 4%)
- Highlands Open Water Protection – 13,555 acres – 47%
- Forest Resource Area – 22,250 acres – 78%
- Conservation Priority Areas – 7,850 acres – 27%
- Agricultural Priority Areas – 4,117 acres – 14%

**Washington Township  
Background Statistics – Land Use**

<b>NJDEP Land Use/Land Cover (2007)</b>	<b>Plan</b>	<b>Pres</b>	<b>Percent</b>
<b>Residential (Single &amp; Multi Family)</b>	<b>850</b>	<b>5,974</b>	<b>23.8%</b>
<b>Commercial (Retail)</b>	<b>92</b>	<b>112</b>	<b>0.7%</b>
<b>Industrial &amp; Transportation &amp; Utilities</b>	<b>59</b>	<b>407</b>	<b>1.6%</b>
<b>Agriculture (Crops &amp; Plantations)</b>	<b>973</b>	<b>4,111</b>	<b>17.7%</b>
<b>Recreational Lands (Public &amp; Private)</b>	<b>22</b>	<b>374</b>	<b>1.4%</b>
<b>Other Urban or Built-Up Land</b>	<b>104</b>	<b>306</b>	<b>1.4%</b>
<b>Subtotal Developed Lands</b>	<b>2,100</b>	<b>11,283</b>	<b>46.6%</b>
<b>Mixed Forest</b>	<b>927</b>	<b>9,387</b>	<b>35.9%</b>
<b>Shrub &amp; Scrub</b>	<b>92</b>	<b>538</b>	<b>2.2%</b>
<b>Mixed Wetlands</b>	<b>337</b>	<b>3,645</b>	<b>13.9%</b>
<b>Barren Lands</b>	<b>11</b>	<b>180</b>	<b>0.7%</b>
<b>Water</b>	<b>26</b>	<b>203</b>	<b>0.8%</b>
<b>Subtotal Natural Lands</b>	<b>1,392</b>	<b>13,952</b>	<b>53.4%</b>
<b>Total</b>	<b>3,491</b>	<b>25,235</b>	<b>100.0%</b>

Ms. Swan then showed a movie representing a ‘fly over’ of Washington Township. The movie offered an opportunity to focus on the landscape of the Township, the infrastructure and the built and natural environments. Ms. Swan then showed the land use ordinance maps for the Township. Ms. Swan noted that Highlands Council staff has been working closely with Washington Township on their Waste Water Management Plan for approval by NJDEP.

Ms. Swan then reported that Washington Township maintains an up-to-date and comprehensive Master Plan (including all mandatory elements and numerous optional elements) and has a history of proactive engagement in community planning and conservation initiatives:

- Master Plan Reexamination – 2009
- Long Valley Downtown & Pedestrian Sidewalk Plan - 2008
- Stream Corridor Buffer Ordinance - 2006

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- Stormwater Management Plan – 2005
- Ridgeline Ordinance – 2005
- Resource Conservation Area Ordinance – 2005
- Farmland Preservation Plan – 2003

**Washington Township Historic Long Valley Highlands Center**

Ms. Swan noted that the Petition includes a proposed Highlands Center. The proposed Historic Long Valley Highlands Center includes the Long Valley Historic District, the Washington Township Middle School, and the municipal property adjacent to the preserved Scott Farm. The Highlands Center also includes a small area east of Route 517 and south of Route 513, contiguous to the Historic District, which will provide for a new road linking Route 513 north and south of the Long Valley Historic District, through the Highlands Center. The size and development potential of the Historic Long Valley Highlands Center is limited by the presence of Preservation Area, steep slopes, Highlands Open Waters and buffers, and preserved lands surrounding the area, and the large number of historic buildings within the proposed Highlands Center.

Much of the development potential is associated with the municipal property which was specifically reserved for municipal use (potential affordable housing use) by the Township when they assisted in the preservation of the Scott Farm in Long Valley (~769 acres). The remainder of the Highlands Center incorporates a small business core with long-term potential for continued commercial reuse and adaptive reuse within the setting of a Historic District. Ms. Swan further stated to put the Highlands Center in context with the entire municipality, the Historic Long Valley Highlands Center is roughly 148 acres. This constitutes 0.52% of the Township's 28,726 acres and 4.25% of the Planning Area. Washington Township's assistance in preserving the Scott Farm in Long Valley and other recent preservation efforts have resulted in an impressive total of 8,382 acres of Preserved Lands or 29.18% of the Township. Ms. Swan then showed a map of the proposed Highlands Center within the context of the entire municipality of Washington Township.

Ms. Swan then provided an overview of the Petition of Plan Conformance and the administrative record for Washington Township as follows:

12/08/09	Petition for Plan Conformance Submitted, Full Municipality
02/08/10	Petition Deemed Administratively Complete
02/18/10	Petition Posted to Highlands Council Website
11/19/10	Draft Consistency Report Sent to Municipality
04/18/11	Final Draft Report Posted to Highlands Council Website
05/03/11	End of Public Comment Period (Start 4/18/11)
05/13/11	Final Report Posted to Highlands Council Website
05/19/11	Highlands Council Public Hearing

Ms. Swan acknowledged Keri Benscoter, Resource Management Specialist, as Highlands's staff liaison for Washington Township.

Ms. Swan further noted that Washington Township had completed the Module submittals required under Plan Conformance and that this PowerPoint is posted to Council's website as part of the record. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for Washington Township was completed by the Highlands Council in collaboration with the municipality prior to a

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finding of Administrative Completeness of the Petition. The Report is dated July 2009. Staff RMP Consistency Finding is that Washington Township Highlands Municipal Build-Out Report is consistent with the RMP. With respect to Module 3, the Council staff found that Washington Township's COAH-certified third-round Housing Element and Fair Share Plan (December 2007) was consistent with the RMP.

Ms. Swan then continued with her presentation with respect to the Environmental Resource Inventory, Module 4. Ms. Swan noted that it describes and illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality. The Staff RMP Consistency Finding is that Washington Township's Environmental Resource Inventory is consistent with the RMP.

With respect to the Master Plan Highlands, Module 5, Ms. Swan noted that the Staff RMP Consistency Finding is that Washington Township's will provide revisions for Highlands Council approval to incorporate all relevant language establishing Historic Long Valley Highlands Center (pending approval), and providing the basis or regulatory provisions that will govern it. Master Plan Highlands Element is consistent with the RMP. With respect to the Highlands Area Land Use Ordinance, Module 6, Ms. Swan noted that these regulatory provisions protect Highlands Resources and effectuate the policies, goals, and objectives of RMP at the local level. The Staff RMP Consistency Finding is that Washington Township's Highlands Area Land Use Ordinance is consistent with the RMP.

With respect to the Municipal Petition for Plan Conformance, Module 7, Ms. Swan noted that it consists of all Petition Supporting Materials: Petitioning Resolution/Ordinance, Self-Assessment Report, List of Current Planning Documents, and the Highlands Implementation Plan & Schedule. The Staff RMP Consistency Finding is that Washington Township's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan reports that the Highlands Council and Washington Township are collaborating to prepare a municipal Wastewater Management Plan (WMP) on a parallel path with the Plan Conformance process for approval by NJDEP, and adoption as a chapter of the Morris County WMP. The WMP shall incorporate the Historic Long Valley Highlands Center as Future Sewer Service Area. Other areas to be identified as Future Sewer Service Area: Valley View Chapel, Township-approved Heath 2 development, and certain parcels with documented failing septic systems. Other parcels are being investigated and may be included at a later date, through approval of a Consistency Determination by the Highlands Council and approval of a WMP Revision by the NJDEP. Ms. Swan commented that she thanks the Washington Township officials and in particular Cristianna Cooke-Gibbs, Health Officer.

Ms. Swan then presented a summary of the public comments received and a summary of the draft responses prepared by Highlands Council staff for Washington Township's Petition for Plan Conformance. The public comment period for Washington Township's Petition for Plan Conformance opened on April 18, 2011 and closed May 3, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Comments received from:

- New Jersey Highlands Coalition



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- New Jersey Conservation Foundation

Comments submitted by Erica Van Auken, New Jersey Highlands Coalition:

**Comment 1:** The New Jersey Highlands Coalition supports the proposed updates to the sewer service areas.

- **Response:** The Highlands Council acknowledges the New Jersey Highlands Coalition's support of the Wastewater Management Plan amendments and revisions.

Comments submitted by Erica Van Auken, New Jersey Highlands Coalition and Wilma Frey, NJ Conservation Foundation:

**Comment:** The New Jersey Highlands Coalition supports Washington Township's petition to designate a Historic Long Valley Highlands Center, which will support sound development as well as incorporate an affordable housing proposal, as long as care is taken to minimize environmental impact. The NJ Conservation Foundation supports the proposed Historic Long Valley Highlands Center, as long as constraints in Appendix C of the Final Draft Consistency Review and Recommendations Report are implemented.

- **Response:** The Highlands Council acknowledges support for the proposed Historic Long Valley Highlands Center and fully expects that all conditions being applied to the design and implementation of the center will be complied with to the fullest extent.

**Comment:** The New Jersey Highlands Coalition does have concerns regarding a prior round site proposed for the Planning Area, due to environmental constraints. The New Jersey Conservation Foundation commented that the site does not appear to be appropriate for a 360-unit condo development due to Highlands resource constraints.

**Response:** This project is in the Planning Area, Conservation Zone and Protection Zone, and does have Highlands resource constraints. However, the project has obtained all local and NJDEP approvals and therefore represents a reasonable potential for development as it pertains to affordable housing.

Ms. Swan then summarized the Staff Recommendation for Washington Township's Petition for Plan Conformance that it be approved with the following conditions:

- Adoption of Approved Checklist Ordinance
- Adoption of Planning Area Petition Ordinance
- Adoption of Completed Environmental Resource Inventory
- Adoption of Completed Master Plan Highlands Element
- Completion and Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map
- Wastewater Management Plan (WMP)
- Update/Development & Implementation of:
  - Water Use & Conservation Management Plan
  - Stormwater Management Plan (updates only)
  - Habitat Conservation and Management Plan
  - Land Preservation & Stewardship Program
  - Septic System Management/Maintenance Plan
  - Sustainable Economic Development Plan

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- Green Building and Environmental Sustainability Element
- Agricultural Retention Plan
- Stream Corridor Protection & Restoration Plan
- Highlands Center and Redevelopment Area Planning

Ms. Swan then reported the future Highlands Protection Fund grants for Washington Township as part of the Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:

- Water Use and Conservation Management Plans for three HUC14 subwatersheds with moderate Net Water Availability deficits
- Highlands Center Designation and Redevelopment Area Plan to initiate planning to assist with the implementation of the Historic Long Valley Highlands Center designation and to examine potential for redevelopment areas consistent with the Regional Master Plan.
- Agriculture Retention Plan to improve the sustainability of agricultural businesses, building on highly successful preservation efforts
- Habitat Conservation and Management Plan to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
- Stream Corridor Protection Restoration Plan to protect/restore streams and to mitigate the impacts of future land uses.

Acting Chairman Schrier noted that Mr. Alstede is now in attendance at the meeting.

*Mr. Cogger made a motion to approve the Resolution for Washington Township. Mr. Francis seconded it.*

**Public Comments**

**Kenneth Short, Mayor of Washington Township** - Mr. Short commented that it has been a long process but very fruitful process. Mr. Short thanks Ms Swan and staff for the open communication and always being available and providing the Township with a lot of information. Ms. Short stated that there were numerous meetings between the Township and Highlands staff which have been very cooperative and productive. Mr. Short stated that Washington Township is a very environmental conscious community and first community in the state to develop a right-to-farm ordinance. Washington Township has quite a bit of preserved farmland, just shy of 6,000 acres which consists of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> generation farms. Mr. Short commented that the Highlands Act has put restrictions on the value and taking of these lands and knows Council does not have the authority but urges Council to implore Trenton to come up with some funding formula for these farmers. Mr. Short adds that the farmers have been the base of the community for over 100 years and the community relies on them.

Mr. Short mentioned earlier that Washington Township has several environmental ordinances so the Township bought into the Highlands Act before it became the Highlands Act in 2004. The Township is a first community to have a TDR with the OFP property and welcomes that. Mr. Short then touched on the economic impact on Washington Township over the last two years stating that in over 45 square miles, the township has had ten homes built. In addition, assessments used to be \$1.5-\$2 million a year and last year it was \$90,000. Mr. Short stated as the township moves forward

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with the intent of planning for Plan Conformance it should be noted that there has to be more of an economic stimulus for municipalities and they look forward to working with the Highlands Council and the State to get some of that economic value. Mr. Short concludes that the intent of the Highlands Act is water quality and water preservation. Washington Township has had water restrictions for 26 of the last 33 years and currently under water restrictions in the municipality. Mr. Short adds that Washington Township has pristine water to share but needs to take care of its 18,000 residents first. Finally, Mr. Short states that Washington Township third round COAH obligations is in the Planning Area and also includes the units adjacent to the middle school which is part of the Historic Center. Mr. Short stated that panels of experts are present today for any further questions and looks forward to working with the Highlands staff and Council.

**David Banisch, Banisch & Associates** - Mr. Banisch had nothing further to add to Mayor Short's comments but wanted to reiterate his point about the Council staff. Mr. Banisch comments how wonderful it is to work with the Highlands staff and Council and that it has been an excellent experience.

**David Shope, owns property in Lebanon Township** - Ms. Shope was disappointed that Washington Township is opting in the Preservation and Planning Areas and advised Council to vote against it. Mr. Shope expressed his dissatisfaction with the Highlands Act and RMP and how it affects municipalities.

**Erika Van-Auken, New Jersey Highlands Coalition** – Ms. Van-Auken commented that the New Jersey Highlands Coalition supports Washington Township's Petition for Plan Conformance and the Historic Center, as long as care is taken to minimize environmental impact in the Existing Community Zone.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey supports Washington Township's Petition for Plan Conformance but has a few concerns about the Township's Center and third round COAH obligations. Ms. Frey hopes the municipality will take great care to insure that the new development is located carefully in a design and scale with materials that will integrate with its surroundings. Ms. Frey hopes the Highlands Council assists the township to insure that that happens. Ms. Frey noted it is important that the conditions in Appendix C of the Final Draft Consistency Review and Recommendations Report are implemented. Ms. Frey expressed concern about the third round affordable housing obligation site which contains many Highlands resource constraints. Ms. Frey hopes that there is time taken to rethink a more appropriate use on the level and scale of this development for this site.

**David Banisch, Banisch & Associates** – Mr. Banisch responded to Ms. Frey's comments that the affordable housing site has been carefully planned under the initial third round regulations with a number of environmental controls put in place. Washington Township has a continuing obligation to provide their fair share affordable housing. Mr. Banisch can assure Council that based on regulations from NJDEP, the site continues to be a focus for the affordable housing obligation. Mr. Banisch also added that considering the market, the site could be modified.

**Council Comments**

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Ms. Carluccio asked why are there other uses on the site besides the apartments that are to be used for the affordable housing obligation. Mr. Banisch responded that under Mt. Laurel municipalities may use an inclusory housing technique to meet their affordable housing obligations whereby the developer pays for the affordable units through the sale of market rate units. Ms. Banish stated that it may or may not go forward. Mr. Banisch further stated that we use the best information that is currently available.

Mr. Alstede stated that he is a resident of Washington Township which does not constitute a conflict and will participate in the vote for Washington Township's Petition for Plan Conformance.

Ms. Swan acknowledged Highlands staff members Dan Van Abs for his work on the Wastewater Management Plans as well as Casey Ezyske, a part-time employee who is working with Dan and is the staff person responsible for the wastewater plan narratives.

*All members present voted on the Resolution by roll call. The Resolution was APPROVED 10-0.*

At this time commemorative photos were taken as the Acting Chair presented a framed certificate regarding the approval of the Plan Conformance Petition to Mayor Kenneth Short.

*Messrs. Visioli and Cogger temporarily left the meeting at 2:10pm.*

**Public Hearing and Consideration of Resolution– Petition for Plan Conformance by Holland Township**

Ms. Swan acknowledged the representatives from Holland Township in attendance at the meeting: Deputy Mayor Anthony Roselle, Thomas Scheibener, Committeemen; Daniel Rader, Planning Board Chair; Michael Keady, Environmental Commission Chair; Peter Craig, former Planning Board Chair; and Laura Souders, Vice Chair Planning Board.

Ms. Swan then proceeded with the PowerPoint presentation of the Holland Township Petition for Plan Conformance. She presented photographs of Holland Township so the Council could focus on the character of the community and the past planning and protection initiatives of the township. Ms. Swan presented background statistics and information for Holland Township.

- Incorporated: 1879
- Population (2009 est.): 5,268
- Land Area: 15,342 acres/23.9 sq. mi
- Preserved Lands: 3,641 acres
- Wetlands: 1,027 acres
- Total Forest: 7,106 acres
- Farmland: 4,174 acres

Ms. Swan presented significant Highlands statistics as they pertain to Holland Township:

- Preservation Area Lands: 1,973 acres – 13%
- Planning Area Lands: 13,352 acres – 87%

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- Conservation Zone – 7,497 acres – 49%
- Protection Zone – 6,643 acres – 43%
- Existing Community Zone – 629 acres – 4% (Roads 4%)
- Highlands Open Water Protection – 7,042 acres – 46%
- Forest Resource Area – 7,224 acres – 47%
- Conservation Priority Areas – 1,680 acres – 11%
- Agricultural Priority Areas – 5,300 acres – 35%

**Holland Township  
Background Statistics – Land Use**

<b>NJDEP Land Use/Land Cover (2007)</b>	<b>Plan</b>	<b>Pres</b>	<b>Percent</b>
<b>Residential (Single &amp; Multi Family)</b>	<b>2,242</b>	<b>333</b>	<b>16.8%</b>
<b>Commercial (Retail)</b>	<b>38</b>	<b>0</b>	<b>0.2%</b>
<b>Industrial &amp; Transportation &amp; Utilities</b>	<b>324</b>	<b>47</b>	<b>2.4%</b>
<b>Agriculture (Crops &amp; Plantations)</b>	<b>3,744</b>	<b>321</b>	<b>26.5%</b>
<b>Recreational Lands (Public &amp; Private)</b>	<b>222</b>	<b>7</b>	<b>1.5%</b>
<b>Other Urban or Built-Up Land</b>	<b>182</b>	<b>23</b>	<b>1.3%</b>
<b>Subtotal Developed Lands</b>	<b>6,752</b>	<b>730</b>	<b>48.8%</b>
<b>Mixed Forest</b>	<b>4,551</b>	<b>979</b>	<b>36.1%</b>
<b>Shrub &amp; Scrub</b>	<b>888</b>	<b>43</b>	<b>6.1%</b>
<b>Mixed Wetlands</b>	<b>846</b>	<b>178</b>	<b>6.7%</b>
<b>Barren Lands</b>	<b>15</b>	<b>0</b>	<b>0.1%</b>
<b>Water</b>	<b>282</b>	<b>43</b>	<b>2.1%</b>
<b>Subtotal Natural Lands</b>	<b>6,582</b>	<b>1,243</b>	<b>51.1%</b>
<b>Total</b>	<b>13,334</b>	<b>1,973</b>	<b>99.9%</b>

*Messrs. Visioli and Cogger returned to the meeting at 2:22pm.*

Ms. Swan then showed a movie representing a ‘fly over’ of Holland Township. The movie offered an opportunity to focus on the landscape of the Township, Ms. Swan pointed out the difference between this municipality and the prior one, which is why the ‘fly overs’ give the Council and public an opportunity to appreciate the unique characteristics of the municipality being considered. . Ms. Swan then showed the land use ordinance maps for the Township. Ms. Swan noted that Holland Township may take the lead for clustering provisions because of the many agricultural lands in the community.

Ms. Swan then reported that Holland Township maintains an up-to-date and comprehensive Master Plan (including all mandatory elements and numerous optional elements) and has a history of proactive engagement in community planning and conservation initiatives:

- Master Plan Reexamination – 2007
- Comprehensive Farmland Preservation Plan – 2007
- Natural Resource Inventory – 2007
- Stormwater Management Plan – 2005

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- Open Space Plan – 2004

Ms. Swan then provided an overview of the Petition of Plan Conformance and the administrative record for Holland Township has follows:

12/7/09	Petition for Plan Conformance Submitted, Full Municipality
1/22/10	Petition Deemed Administratively Complete
02/1/10	Petition Posted to Highlands Council Website
1/13/11	Draft Consistency Report Sent to Municipality
4/19/11	Final Draft Report Posted to Highlands Council Website
5/4/11	End of Public Comment Period (Start 4/19/11)
5/13/11	Final Report Posted to Highlands Council Website
5/19/11	Highlands Council Public Hearing

Ms. Swan further noted that Holland Township had completed the Module submittals required under Plan Conformance and that this PowerPoint is posted to Council's website as part of the record. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for Holland Township was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The Report is dated July 2009. Staff RMP Consistency Finding is that Holland Township Highlands Municipal Build-Out Report is consistent with the RMP. With respect to Module 3, the Council staff found that Holland Township's Fair Share Plan and Housing Element was consistent with the RMP.

Ms. Swan then continued with her presentation with respect to the Environmental Resource Inventory, Module 4. Ms. Swan noted that it describes and illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality. The Staff RMP Consistency Finding is that Holland Township's Environmental Resource Inventory is consistent with the RMP.

With respect to the Master Plan Highlands, Module 5, Ms. Swan noted that the Staff RMP Consistency Finding is that Holland Township's Master Plan Highlands Element is consistent with the RMP. With respect to the Highlands Area Land Use Ordinance, Module 6, Ms. Swan noted that these regulatory provisions protect Highlands Resources and effectuate the policies, goals, and objectives of RMP at the local level. The Staff RMP Consistency Finding is that Holland Township's Highlands Area Land Use Ordinance is consistent with the RMP.

With respect to the Municipal Petition for Plan Conformance, Module 7, Ms. Swan noted that it consists of all Petition Supporting Materials: Petitioning Resolution/Ordinance, Self-Assessment Report, List of Current Planning Documents, and the Highlands Implementation Plan & Schedule. The Staff RMP Consistency Finding is that Holland Township's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan then presented a summary of the public comments received and summary of the draft responses prepared by Highlands Council staff for Holland Township's Petition for Plan Conformance. The public comment period for Holland Township's Petition for Plan Conformance opened on April 19, 2011, and closed May 4, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Comments received from:

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- Numerous Holland Township Residents
- New Jersey Farm Bureau
- New Jersey Highlands Coalition

Comments submitted by: Residents of Holland Township

**Comment:** Residents of Holland Township submitted eleven comments, all in support of the Petition for Plan Conformance, the process and the Regional Master Plan.

**Response:** The Highlands Council acknowledges these comments and thanks each resident who took the time to contribute to this public comment opportunity offered through the Plan Conformance schedule.

**Comment:** One resident, Mr. Grisewood, submitted a comment regarding an inclusionary affordable housing site, located in the Planning Area. He contends that the project has been significantly modified since obtaining local approvals, thereby invalidating said approvals.

**Response:** The Highlands Council notes Mr. Grisewood's comment regarding the inclusionary site. Normally, development projects in the Holland Township Planning Area would be governed by the Highlands Area Land Use Ordinance, once adopted. However, as the project currently has local approvals, it would be excluded from applicability of the Highlands Area Land Use Ordinance. If approvals for the project lapse or are otherwise no longer valid, then the standards of the adopted Highlands Area Land Use Ordinance would apply. The municipality would be responsible for application of the Highlands Land Use Ordinance to any regulated development, subject to Highlands Council review.

Comments from Helen Heinrich, New Jersey Farm Bureau

**Comment -** The New Jersey Farm Bureau appreciates the opportunity to review the Plan Conformance petition for Holland Township and hopes that the Township will find a way to raise the percentage of preserved farmland during the development of its Agricultural Retention / Farmland Preservation Plan. The Bureau is happy to see that analyzing the feasibility and "potential for clustering of clusters development" is a high priority task in the Implementation Plan and Schedule.

**Response -** The Highlands Council acknowledges the New Jersey Farm Bureau's support for the Holland Township Agricultural Retention/Farmland Preservation Plan, which will be developed by the Township with a Highlands Council-approved scope of work. Additionally, the Highlands Council acknowledges the Bureau's support of the funding of a feasibility analysis for cluster development in the Township.

Ms. Swan noted in the schedule posted on the website it was stated that the clustering work would be done in 2011 which is virtually impossible, so the work would be done in 2011-2012 to allow the municipality enough time to do the job.

Comments from Erica Van Auken, New Jersey Highlands Coalition

**Comment -** The New Jersey Highlands Coalition supports Holland Township's Petition for Plan Conformance for both the planning and preservation area. The Coalition does have concerns regarding two affordable housing sites because of environmental constraints.

**Response -** The Highlands Council acknowledges the Coalition's support of Holland Township's Petition for Plan Conformance. The Highlands Council notes the comments regarding

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the two affordable housing projects which are both in the Planning Area and do have Highlands resource constraints. However, both projects have prior local and NJDEP approvals and represent reasonable potential for development as they pertain to affordable housing. For both projects, should the approvals lapse or are otherwise no longer valid, the Highlands Area Land Use Ordinance would apply for any new applications as discussed above.

Ms. Swan then summarized the Staff Recommendation for Holland Township's Petition for Plan Conformance that it be approved with the following conditions:

- Adoption of Approved Checklist Ordinance
- Adoption of Planning Area Petition Ordinance
- Adoption of Completed Environmental Resource Inventory
- Adoption of Completed Master Plan Highlands Element
- Completion and Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map
- Wastewater Management Plan
- Compliance with Fair Housing Act (COAH Certification). This condition requires updates on COAH proceedings and Council review of any proposed changes to the Fair Share Plan and Housing Element.
- Update/Development & Implementation of:
  - Water Use & Conservation Management Plan
  - Stormwater Management Plan (updates only)
  - Habitat Conservation and Management Plan
  - Land Preservation & Stewardship Program
  - Septic System Management/Maintenance Plan
  - Sustainable Economic Development Plan
  - Cluster Development Plan
  - Agricultural Retention Plan
  - Stream Corridor Protection & Restoration Plan

Ms. Swan then reported the future Highlands Protection Fund grants for Holland Township as part of the Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:

- **Cluster Development** feasibility analysis to determine potential for clustering of cluster development in Agricultural Resource Area.
- **Habitat Conservation and Management Plan** to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
- **Stream Corridor Protection Restoration Plan** to protect/restore streams and to mitigate the impacts of future land uses

Ms. Swan acknowledged Keri Benscoter, Resource Management Specialist, as Highlands staff liaison for Holland Township.

*Ms. Carluccio made a motion on the Resolution for Holland Township. Mr. Holtaway seconded it.*



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**Council Comment**

Ms. Letts asked if this is the first application before Council who would like to develop a clustering plan for the agricultural lands. Ms. Swan responded that clustering is required as part for municipalities for residential development in the Agricultural Resource Area and in this case it is a priority because of the amount of agricultural lands and as an opportunity to get Holland out ahead in terms of doing the work to create a model, but other municipalities will be doing this as well. Ms. Letts asked how much funding is allotted for this plan. Ms. Swan responded that \$15,000 is allocated towards agricultural retention plan and \$7,500 towards cluster development feasibility study and if there is a need for more the municipality may come back to the Council. Ms. Letts commented since this is a model she hopes it is properly funded.

**Public Comments**

**Michael Keady, Environmental Commission Chair** – Mr. Keady submitted his statement for the record. Mr. Keady supports Council's approval of Holland Township's Petition for Plan Conformance. Mr. Keady stated that the key role of the Highlands staff assisted the municipality with their decision to move forward with Plan Conformance in the Planning and Preservation Areas.

**Peter Craig, former Planning Board Chair** – Mr. Craig reiterated Mr. Keady's comments. Mr. Craig commented on the great contributions of Mr. John DiSarro and Mr. Ed Burdzy who are very conservative politicians, deeply dedicated advocates of home rule, that notwithstanding they had the vision to see the great sense and necessity of regional planning through the Highlands Protection and Planning Council and the Highlands staff was very instrumental in seeing the transformation happen over the years.

**David Shope, owns property in Lebanon Township** – Mr. Shope stated that he heard that this whole thing is fact driven. It is a fact that we are in a perpetual drought, he questioned whether this was as a result of the Act or the DEP rules. He spoke about this in relation to how deficit areas were determined. He questioned the nitrate dilution standards that determine septic density in the Preservation Area. He expressed that these standards would now be applied in the Planning Area. He brought up the question of agricultural viability and quoted figures on the \$40 an acre return. He questioned Holland's decisions to opt in. Mr. Shope wondered if there are any farmers in attendance from Holland Township.

**Erika Van-Auken, New Jersey Highlands Coalition** – Ms. Van-Auken commented that the New Jersey Highlands Coalition supports Holland Township's Petition for Plan Conformance but has concern on the Huntington Knolls development because of the environmental constraints on the property.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey supports Holland Township's Petition for Plan Conformance. Ms. Frey echoes the concerns of Ms. Van-Auken about the Huntington Knolls tract.

*Ms. Kovach was not in attendance for the vote.*

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*All members present voted on the Resolution by roll call. The Resolution was APPROVED 9-0.*

At this time commemorative photos were taken as the Acting Chair presented a framed certificate regarding the approval of the Plan Conformance Petition to Deputy Mayor Anthony Roselle.

**Public Hearing and Consideration of Resolution– Petition for Plan Conformance by Kinnelon Borough**

Ms. Swan acknowledged Kinnelon Borough's representatives present at the meeting. In attendance were: Mayor Robert W. Collins; John Miller Esq.; and Adrian Humbert, Planner

*Mr. Schrier and Ms. Letts temporarily left the meeting at 2:55pm*

Ms. Swan presented photographs of Kinnelon Borough so the Council could focus on the character of the community and the past planning and protection initiatives of the township. Ms. Swan presented background statistics and information for Kinnelon Borough.

- Incorporated: 1922
- Population (2009 est.): 9,617
- Land Area: 12,309 acres/19.2 sq. mi.
- Preserved Lands: 4,068 acres
- Wetlands: 786 acres
- Total Forest: 8,241 acres
- Farmland: 12 acres

Ms. Swan presented significant Highlands statistics as they pertain to Kinnelon Borough:

- Preservation Area Lands: 11,984 acres – 97%
- Planning Area Lands: 325 acres – 3%
- Protection Zone – 10,124 acres – 82%
- Conservation Zone – 1,366 acres – 11%
- Existing Community Zone – 175 acres – 1% (Roads 5%)
- Highlands Open Water Protection – 6,128 acres – 50%
- Forest Resource Area – 12,087 acres – 98%
- Conservation Priority Areas – 4,729 acres – 38%

**Kinnelon Borough  
Background Statistics – Land Use**

<b>NJDEP Land Use/Land Cover (2007)</b>	<b>Plan</b>	<b>Pres</b>	<b>Percent</b>
<b>Residential (Single &amp; Multi Family)</b>	<b>76</b>	<b>2,966</b>	<b>24.7%</b>
<b>Commercial (Retail)</b>	<b>7</b>	<b>113</b>	<b>1.0%</b>
<b>Industrial &amp; Transportation &amp; Utilities</b>	<b>55</b>	<b>79</b>	<b>1.1%</b>
<b>Agriculture (Crops &amp; Plantations)</b>	<b>0</b>	<b>9</b>	<b>0.1%</b>
<b>Recreational Lands (Public &amp; Private)</b>	<b>11</b>	<b>116</b>	<b>1.0%</b>

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<b>Other Urban or Built-Up Land</b>	<b>9</b>	<b>92</b>	<b>0.8%</b>
<b>Subtotal Developed Lands</b>	<b>159</b>	<b>3,375</b>	<b>28.7%</b>
<b>Mixed Forest</b>	<b>115</b>	<b>7,115</b>	<b>58.7%</b>
<b>Shrub &amp; Scrub</b>	<b>1</b>	<b>18</b>	<b>0.2%</b>
<b>Mixed Wetlands</b>	<b>36</b>	<b>750</b>	<b>6.4%</b>
<b>Barren Lands</b>	<b>13</b>	<b>66</b>	<b>0.6%</b>
<b>Water</b>	<b>2</b>	<b>660</b>	<b>5.4%</b>
<b>Subtotal Natural Lands</b>	<b>166</b>	<b>8,609</b>	<b>71.3%</b>
<b>Total</b>	<b>325</b>	<b>11,984</b>	<b>100.0%</b>

Ms. Swan then showed a movie representing a ‘fly over’ of Kinnelon Borough. The movie showed a municipality with forests and scattered development, in contrast to Holland there is little agriculture in this community. Ms. Swan then showed the land use ordinance maps for the Township.

In addition to maintaining an up-to-date Comprehensive Master Plan (including all mandatory elements and numerous optional elements), Kinnelon Township has a history of proactive engagement in community planning and conservation initiatives:

- Master Plan Reexamination - 2000
- Open Space and Recreation Plan – 2005
- Stormwater Management Plan – 2007

Ms. Swan then provided an overview of the Petition of Plan Conformance and the administrative record for Kinnelon Borough has follows:

12/8/09	Petition for Plan Conformance Submitted, Full Municipality
3/31/10	Petition Deemed Administratively Complete
4/9/10	Petition Posted to Highlands Council Website
1/13/11	Draft Consistency Report Sent to Municipality
4/20/11	Final Draft Report Posted to Highlands Council Website
5/5/11	End of Public Comment Period (Start 4/20/11)
5/13/11	Final Report Posted to Highlands Council Website
5/19/11	Highlands Council Public Hearing

Ms. Swan further noted that Kinnelon Borough had completed the Module submittals required under Plan Conformance and that this PowerPoint is posted to Council’s website as part of the record. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for Kinnelon Borough was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The Report is dated August 2009. Staff RMP Consistency Finding is that Kinnelon Borough Highlands Municipal Build-Out Report is consistent with the RMP. With respect to Module 3, the Council staff found that Kinnelon Borough’s Fair Share Plan and Housing Element was consistent with the RMP.

Ms. Swan then continued with her presentation with respect to the Environmental Resource Inventory, Module 4. Ms. Swan noted that it describes and illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality. The Staff RMP Consistency Finding is that Kinnelon Borough’s Environmental Resource Inventory is consistent with the RMP.

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With respect to the Master Plan Highlands, Module 5, Ms. Swan noted that the Staff RMP Consistency Finding is that Kinnelon Borough's Master Plan Highlands Element is consistent with the RMP. With respect to the Highlands Area Land Use Ordinance, Module 6, Ms. Swan noted that these regulatory provisions protect Highlands Resources and effectuate the policies, goals, and objectives of RMP at the local level. The Staff RMP Consistency Finding is that Kinnelon Borough's Highlands Area Land Use Ordinance is consistent with the RMP.

With respect to the Municipal Petition for Plan Conformance, Module 7, Ms. Swan noted that it consists of all Petition Supporting Materials: Petitioning Resolution/Ordinance, Self-Assessment Report, List of Current Planning Documents, and the Highlands Implementation Plan & Schedule. The Staff RMP Consistency Finding is that Kinnelon Borough's Petition for Plan Conformance is consistent with the RMP.

*Ms. Kovach and Ms. Letts returned to the meeting at 2:59pm.*

*Mr. Schrier returned to the meeting at 3:05pm.*

Ms. Swan noted that Adrian Humbert, Planner for Kinnelon Borough is retiring and wanted to recognize the great work relationship Highlands staff had with Adrian. Ms. Swan also acknowledged James Humphries, Holland Township's Highlands staff liaison, Regional Planner and lead on affordable housing.

Ms. Swan then presented a summary of the public comments received and summary of the draft responses prepared by Highlands Council staff for Kinnelon Borough's Petition for Plan Conformance. The public comment period for Kinnelon Borough's Petition for Plan Conformance opened on April 20, 2011, and closed May 5, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Comments received from:

- Erica Van Auken, New Jersey Highlands Coalition

Comments submitted by: Erica Van Auken, New Jersey Highlands Coalition

**Comment:** The New Jersey Highlands Coalition supports Kinnelon Borough's petition for plan conformance. Regarding Kinnelon's intent to include a Water Use and Conservation Management Plan for the Stony Brook subwatershed, a Stream Corridor Restoration Plan and a Habitat Conservation and Management Plan, the New Jersey Highlands Coalition would be in support of these projects once more details become available demonstrating that they are consistent with the Highlands Act and the Regional Master Plan.

**Response:** The Highlands Council acknowledges the New Jersey Highlands Coalition's support for the Borough's Petition for Plan Conformance and will continue to work with the Borough to develop a Water Use and Conservation Management Plan, a Stream Corridor Restoration Plan, and a Habitat Conservation and Management Plan consistent with the Goals, Policies and Objectives of the RMP. The Highlands Council will be taking lead on the project and will ensure consistency with the Act and RMP.

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Ms. Swan then summarized the Staff Recommendation for Kinnelon Borough's Petition for Plan Conformance that it be approved with the following conditions:

- Adoption of Approved Checklist Ordinance
- Adoption of Planning Area Petition Ordinance
- Adoption of Completed Environmental Resource Inventory
- Adoption of Completed Master Plan Highlands Element
- Completion and Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map
- Wastewater Management Plan
- Compliance with Fair Housing Act (COAH Certification). This condition requires updates on COAH proceedings and Council review of any proposed changes to the Fair Share Plan and Housing Element.
- Update/Development & Implementation of:
  - Water Use & Conservation Management Plan
  - Stormwater Management Plan (updates only)
  - Lake Restoration Management Plan
  - Master Plan Land Use Inventory
  - Master Plan Circulation Plan Element
  - Master Plan Community Facilities Plan Element
  - Habitat Conservation and Management Plan
  - Land Preservation & Stewardship Program
  - Septic System Management/Maintenance Plan
  - Stream Corridor Protection & Restoration Plan

Ms. Swan then reported the future Highlands Protection Fund grants for Kinnelon Borough as part of the Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:

- **Municipal Master Plan Elements** including an update of the Land Use Plan Element, and preparation of new Circulation Plan and Community Facilities Plan Elements
- **Water Use and Conservation Management Plan** for the Stony Brook subwatershed with the Highlands Council serving as the lead for this project
- **Habitat Conservation and Management Plan** to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects
- **Stream Corridor Protection Restoration Plan** to protect/restore streams and to mitigate the impacts of future land uses

*Ms. Letts made a motion on the Resolution for the Borough of Kinnelon. Mr. Holtaway seconded it.*

### **Public Comments**

**Robert W. Collins, Mayor for Kinnelon Borough** – Mr. Collins stated that he has the pleasure of being in attendance with Kinnelon Borough's Planner Adrian Humbert and Attorney John Miller. Mr. Collins thanks the Highlands staff for their incredible work and efforts. Kinnelon is unique and still pursuing preservation efforts. Mr. Collins commented that some residents may wonder if you are 97% in the preservation area why the Borough would still pursue preservation. The Borough

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has steep slopes and is not a farming community but understands that long term goals need to be supported. Mr. Collins mentioned that it is amazing to see the amount of water that comes out of a mountain ridge that is 200 feet above elevation. Mayor Collins thanks the Council and staff for their continued efforts.

**Adrian Humbert, Planner for Kinnelon Borough** – Mr. Humbert stated that he has been a foot soldier through this process and thanks the Council staff for their assistance with the process. Mr. Humbert commented that when he first took the job in 1985, he was handed a book by Mayor Cisco (at that time) on The Natural Resource Inventory of the Borough which was done in 1973. Mr. Humbert stated that since those days the Borough has continued the understanding of the environmental characteristics of Kinnelon. Mr. Humbert thanks the staff for all their assistance.

**John Miller, Attorney** – Mr. Miller thanks the staff for all their help and guidance through the process. It has been a pleasure working with the staff and the process is absolutely worthwhile. Mr. Miller reiterates and appreciates the comments Ms. Swan made regarding Adrian and that he has been a great resource in this process.

Mr. Schrier was sorry to hear of Mr. Humbert's retirement. Mr. Schrier stated that Mr. Humbert has been a valuable asset to the community and wishes him well.

**Erika Van-Auken, New Jersey Highlands Coalition** – Ms. Van-Auken commented that the New Jersey Highlands Coalition supports Kinnelon Borough's Petition for Plan Conformance and we are looking forward to the efforts in the plan conformance process.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey supports Kinnelon Borough's Petition for Plan Conformance. Ms. Frey dedicates her support of this Petition to Lucy Meyer who was chair of the Environmental Commission for many years and who started the Pyramid Mountain preservation effort, part in Kinnelon. Mr. Frey also dedicates her support to the efforts of Mary Dursky who was also a supporter of the Highlands preservation effort.

*All members present voted on the Resolution by roll call. The Resolution was APPROVED 10-0.*

At this time commemorative photos were taken as the Acting Chair presented a framed certificate regarding the approval of the Plan Conformance Petition to Mayor Robert W. Collins.

**Public Hearing and Consideration of Resolution – Petition for Plan Conformance by Franklin Township**

Ms. Swan acknowledged Franklin Township's representatives present at the meeting: Deputy Mayor Bonnie Butler; James Kyle, Planner; and Mike Finelli, Engineer.

Ms. Swan then proceeded with the PowerPoint presentation of the Franklin Township Petition for Plan Conformance. She presented photographs of Franklin Township so the Council could focus on the character of the community and the past planning and protection initiatives of the township. Ms. Swan presented background statistics and information for Franklin Township.

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- Incorporated: 1798
- Population (2009 est.): 3,120
- Land Area: 15,051 acres/23.5 sq. mi.
- Preserved Lands: 3,294 acres
- Wetlands: 724 acres
- Total Forest: 5,555 acres
- Farmland: 7,283 acres

Ms. Swan presented significant Highlands statistics as they pertain to Franklin Township:

- Preservation Area Lands: 3,763 acres – 25%
- Planning Area Lands: 11,288 acres – 75%
- Conservation Zone – 10,963 acres – 73%
- Protection Zone – 3,472 acres – 23%
- Existing Community Zone – 319 acres – 2% (Roads 2%)
- Highlands Open Water Protection – 5,474 acres – 36%
- Forest Resource Area – 6,442 acres – 43%
- Agricultural Priority Areas – 8,368 acres – 56%
- Conservation Priority Areas – 1,273 acres – 8.5%

**Franklin Township  
Background Statistics – Land Use**

<b>NJDEP Land Use/Land Cover (2007)</b>	<b>Plan</b>	<b>Pres</b>	<b>Percent</b>
<b>Residential (Single &amp; Multi Family)</b>	<b>1,162</b>	<b>289</b>	<b>9.6%</b>
<b>Commercial (Retail)</b>	<b>70</b>	<b>34</b>	<b>0.7%</b>
<b>Industrial &amp; Transportation &amp; Utilities</b>	<b>143</b>	<b>29</b>	<b>1.1%</b>
<b>Agriculture (Crops &amp; Plantations)</b>	<b>5,917</b>	<b>1,109</b>	<b>46.7%</b>
<b>Recreational Lands (Public &amp; Private)</b>	<b>45</b>	<b>0</b>	<b>0.3%</b>
<b>Extractive Mining</b>	<b>0</b>	<b>5</b>	<b>0.0%</b>
<b>Other Urban or Built-Up Land</b>	<b>109</b>	<b>44</b>	<b>1.0%</b>
<b>Subtotal Developed Lands</b>	<b>7,447</b>	<b>1,509</b>	<b>59.5%</b>
<b>Mixed Forest</b>	<b>2,778</b>	<b>1,958</b>	<b>31.5%</b>
<b>Shrub &amp; Scrub</b>	<b>335</b>	<b>90</b>	<b>2.8%</b>
<b>Mixed Wetlands</b>	<b>556</b>	<b>156</b>	<b>4.7%</b>
<b>Barren Lands</b>	<b>65</b>	<b>23</b>	<b>0.6%</b>
<b>Water</b>	<b>106</b>	<b>27</b>	<b>0.9%</b>
<b>Subtotal Natural Lands</b>	<b>3,841</b>	<b>2,254</b>	<b>40.5%</b>
<b>Total</b>	<b>11,288</b>	<b>3,763</b>	<b>100.0%</b>

Ms. Swan then showed a movie representing a ‘fly over’ of Franklin Township. The movie offered an opportunity to focus on the unique character of the Township, the difference between the

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landscapes of the Preservation Area and Planning Area was noted. Ms. Swan then showed the land use ordinance maps for the Township.

In addition to maintaining an up-to-date Comprehensive Master Plan (including all mandatory elements and numerous optional elements), Franklin Township has a history of proactive engagement in community planning and conservation initiatives:

- Master Plan Reexamination - 2006
- Open Space and Recreation Plan – 2006
- Farmland Preservation Plan – 2008
- Housing Plan Element – adopted 2001

Ms. Swan then provided an overview of the Petition of Plan Conformance and the administrative record for Franklin Township has follows:

12/8/09	Petition for Plan Conformance Submitted, Preservation Area
1/22/10	Petition Deemed Administratively Complete
2/1/10	Petition Posted to Highlands Council Website
10/18/10	Draft Consistency Report Sent to Municipality
4/4/11	Final Draft Report Posted to Highlands Council Website
4/18/11	End of Public Comment Period (Start 4/4/11)
5/13/11	Final Report Posted to Highlands Council Website
5/19/11	Highlands Council Public Hearing

Ms. Swan further noted that Franklin Township had completed the Module submittals required under Plan Conformance and that this PowerPoint is posted to Council's website as part of the record. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for Franklin Township was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The Report is dated October 2009. Staff RMP Consistency Finding is that Franklin Township Highlands Municipal Build-Out Report is consistent with the RMP. With respect to Module 3, the Council staff found that Franklin Township's Fair Share Plan and Housing Element was consistent with the RMP.

Ms. Swan then continued with her presentation with respect to the Environmental Resource Inventory, Module 4. Ms. Swan noted that it describes and illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality. The Staff RMP Consistency Finding is that Franklin Township's Environmental Resource Inventory is consistent with the RMP.

With respect to the Master Plan Highlands, Module 5, Ms. Swan noted that the Staff RMP Consistency Finding is that Franklin Township's Master Plan Highlands Element is consistent with the RMP. With respect to the Highlands Area Land Use Ordinance, Module 6, Ms. Swan noted that these regulatory provisions protect Highlands Resources and effectuate the policies, goals, and objectives of RMP at the local level. The Staff RMP Consistency Finding is that Franklin Township's Highlands Area Land Use Ordinance is consistent with the RMP.

With respect to the Municipal Petition for Plan Conformance, Module 7, Ms. Swan noted that it consists of all Petition Supporting Materials: Petitioning Resolution/Ordinance, Self-Assessment Report, List of Current Planning Documents, and the Highlands Implementation Plan & Schedule.



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The Staff RMP Consistency Finding is that Franklin Township's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan then presented a summary of the public comments received and summary of the draft responses prepared by Highlands Council staff for Franklin Township's Petition for Plan Conformance. The public comment period for Franklin Township's Petition for Plan Conformance opened on April 4, 2011, and closed April 18, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Comments received from:

- New Jersey Farm Bureau

Comments submitted by: Helen Heinrich, New Jersey Farm Bureau

**Comment:** The NJ Farm Bureau strongly supports grant funding for development of an Agricultural Retention /Farmland Preservation Plan, for all of the Highland Preservation Area and Planning Area lands, although the Township is only conforming for the Preservation Area. The Bureau supports a regional strategy for enhancing the viability of local farming operations with surrounding communities such as Lopatcong and Bethlehem.

**Response:** The Highlands Council acknowledges the Bureau's support of grant funding opportunities. The Plan will apply to all Township lands. The Highlands Council supports coordinated planning of shared or similar resources as an effective and efficient way to enhance results of the planning process, including any potential effort of multiple municipalities to work cooperatively with the Warren County Agriculture Development Board and the New Jersey Department of Agriculture on a regional plan.

Ms. Swan then summarized the Staff Recommendation for Franklin Township's Petition for Plan Conformance that it be approved with the following conditions:

- Adoption of Approved Checklist Ordinance
- Adoption of Completed Environmental Resource Inventory
- Adoption of Completed Master Plan Highlands Element
- Completion and Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map
- Wastewater Management Plan
- Compliance with Fair Housing Act (COAH Certification). This condition requires updates on COAH proceedings and Council review of any proposed changes to the Fair Share Plan and Housing Element.
- Update/Development & Implementation of:
  - Water Use & Conservation Management Plan
  - Stormwater Management Plan (updates only)
  - Habitat Conservation and Management Plan
  - Land Preservation & Stewardship Program
  - Septic System Management/Maintenance Plan
  - Sustainable Economic Development Plan
  - Agricultural Retention Plan
  - Stream Corridor Protection & Restoration Plan
  - Highlands Redevelopment Area Planning

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Ms. Swan then reported the future Highlands Protection Fund grants for Franklin Township as part of the Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:

- **Agriculture Retention Plan** to improve sustainability of agricultural businesses within the Township.
- **Highlands Redevelopment Area Plan** to initiate planning to examine potential for redevelopment areas consistent with the Regional Master Plan in the Route 57 corridor.
- **Habitat Conservation and Management Plan** to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
- **Stream Corridor Protection Restoration Plan** to protect/restore streams and to mitigate the impacts of future land uses.

Ms. Swan acknowledged Keri Benscoter, Resource Management Specialist, as Highlands staff liaison for Franklin Township. Mr. Schrier added that the entire staff has been busy and commends them for all their efforts.

*Ms. Kovach made a motion on the Resolution for Franklin Township. Ms. Letts seconded it.*

### **Public Comments**

**Bonnie Butler, Deputy Mayor** – Ms. Butler stated that she currently serves as deputy mayor and served as mayor throughout most of the modules for Plan Conformance. Ms. Butler would like to echo what she has heard before and thanks the staff for their ease in dealing with the modules, particularly to Eileen Swan and Tom Borden who came out to our municipality on more than one occasion and dealt with a not so friendly crowd sometimes. Ms. Butler also commends staff member Herb August who has helped with the reimbursement of funds. Ms. Butler commented that it is important to note that the Highlands Council's plan dovetails some of Franklin Township's activities specifically our ongoing commitment to open space and farmland preservation. Ms. Butler noted that the Township has two waterways of significance (Pohatcong Creek and the Musconetcong River) which was granted a wild and scenic status some years ago. Ms. Butler urges Council to do your utmost to promote the compensation issue for landowners for their loss of equity. Franklin Township looks forward to working with Council in the implementation of the plan and to see that we meet the conditions that Council has detailed.

**Mike Finelli, Township Engineer** – Mr. Finelli commented that he is a soldier in the process. Mr. Finelli commented that the staff has received many accolades which are very deserving. Mr. Finelli stated that he represents many other municipalities and have dealt with Highlands staff extensively. The staff has made the process much easier and they are a pleasure to work with.

**Erika Van-Auken, New Jersey Highlands Coalition** – Ms. Van-Auken commented that the New Jersey Highlands Coalition cannot support Franklin Township's Petition for Plan Conformance because of three proposed development projects (Brandywine at Broadway, Edison Road, LLC, and 100% Affordable Site, Block 16, Lot 9.02) are inappropriate for the conservation zone and to be consistent with the Highlands Act and RMP. Ms. Van-Auken concluded that if the proposed development sites' address the environmental concerns noted in the Council's Final Consistency

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Review and Recommendation Report the Highlands Coalition will reconsider their approval of Franklin Township Petition.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey also has concerns regarding the affordable housing proposals for Franklin Township’s Fair Share Plan especially with the Brandywine at Broadway site. Ms. Frey understands that the Township acknowledges the issues and will modify the Fair Share Plan as needed to achieve RMP consistency. Ms. Frey adds that this site has been a red-flagged site by the NJ Conservation Foundation for some time. This site has given inclusory development a bad name and is an environmentally sensitive site.

Ms. Butler responded to say that Franklin Township purchased the site and at the present time do not plan any residential development.

**David Shope, owns property in Lebanon Township** – Mr. Shope wondered if Council did not approve this Petition in the Preservation Area what would Council do but deny the Township to comply with the law. Mr. Shope gave his opinion of environmentalists and the fact that things change and the population needs to go somewhere.

**Frank Minch – New Jersey Department of Agriculture** – Mr. Minch stated that the Department of Agriculture supports the Franklin Township Petition for Plan Conformance and looks forward to the opportunity to work with Highlands staff on agricultural retention plans throughout the whole municipality.

Ms. Carluccio asked for clarification that the Edison Road and 100% affordable housing sites are in the Planning Area and there are no COAH developments proposed for the Preservation Area. Ms. Swan concurred that the COAH developments are in the Planning Area and Franklin Township is conforming only in the Preservation Area.

Mr. Francis noted that Franklin Township is the third application where COAH is an issue. Mr. Francis noted that until Council can change that COAH is forcing to put development where it should not be.

*All members present voted on the Resolution by roll call. The Resolution was APPROVED 10-0.*

At this time commemorative photos were taken as the Acting Chair presented a framed certificate regarding the approval of the Plan Conformance Petition to Deputy Mayor Bonnie Butler.

**Resolution for Proposed Highlands Redevelopment Area Designation for Mount Olive Township**

Ms. Swan introduced the proposed Highlands Redevelopment Area designation and acknowledged the representatives present at the meeting and thanked them for their patience throughout this meeting. The representatives are: Timothy Conway, Nicholas Wunner and Richard Wade. Ms. Swan noted to Council that the proposed Highlands Redevelopment Area designation was presented

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for discussion purposes during Mount Olive Township's Plan Conformance Petition presentation by Highlands Council staff.

*Ms. Carluccio and Mr. Cogger left the meeting at 3:42pm.*

The Township is petitioning the Highlands Council for a Highlands Redevelopment Area Designation in the Preservation Area using the 70% impervious surface criteria established in the Highlands Act. The Sand Shore Road area was identified in Mount Olive Township's approved Petition for Plan Conformance. The area includes portions of Block 8300 (Lots 5, 5.01, 5.02, 6, 7, 8 and 9) along the north side of Sand Shore Road, is mostly developed, and contains a commercial building on each lot with the exception of Lot 5.01, which is largely an open field with surface disturbance. Preserved lands surround the area.

Ms. Swan further noted that the Hackettstown Congregation of Jehovah's Witness (owner of Lot 5.01) proposes to construct a 4,296 sq ft one-story building, associated parking area, drainage, and a new septic system, and to deed restrict approximately 1.65 acres. According to information provided by the Township regarding maximum lot coverage and Floor Area Ratio based on zoning, future development on Lots 5, 5.02, 6, 7, 8, and 9 is highly constrained. If approved, the Congregation may apply for a Highlands Preservation Area Approval (HPAA) with redevelopment waiver permit from the NJDEP.

*Ms. Carluccio returned to the meeting at 3:45pm.*

Ms. Swan noted that as for all proposed Highlands Redevelopment Area Designations that come before the Council, this is a two-step process: first, the Council approves the Highlands Redevelopment Area. Second, the application moves forward to the NJDEP for a Highlands Preservation Area Approval with redevelopment waiver.

Ms Swan then gave a brief history of the project to provide perspective. The Congregation became interested in the property (Lot 5.01) in 2003. Concept plans were developed for the congregation building, associated parking, and septic system. The plan and various application materials were submitted to Mount Olive Township in October 9, 2003 and received approval on December 1, 2003. The Congregation had drilled a well on the property in June 2003, purchased the property, and the deed was filed on February 27, 2004. The preliminary site plan was submitted to the Township on May 22, 2006 and received preliminary and final approval on September 11, 2006. On December 29, 2006, the Congregation submitted a Highlands Applicability Determination (HAD) application to the NJDEP for Highlands Exemption #6 – Places of worship, schools, or hospitals. "Any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, ..." On May 17, 2007 the NJDEP denied the Exemption #6 request noting that the project is proposed on a lot that does not currently contain an existing structure that is in use by the Hackettstown Congregation of Jehovah's Witness and the project does not fall under the exemption as an improvement.

Ms. Swan continued to say that one mechanism for a waiver would be based upon a determination by NJDEP that granting of the waiver was necessary to avoid a taking of private property without just compensation. As part of the determination, NJDEP would examine whether other options

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such as designation of a Highlands Redevelopment Area, were available in this case. In this case, the lack of impervious surface on Lot 5.01 makes such a designation impossible with regard to the single lot, and the Congregation may not propose a Highlands Redevelopment Area for lands it does not own or control. With approval of Plan Conformance for Mount Olive Township in 2011, an opportunity arose for the Township to provide leadership in the evaluation and designation of multi-parcel, multi-owner Highlands Redevelopment Areas. The Township identified a number of possible areas, and the Highlands Council approved planning funds for investigation of these. Based on discussions with the Township, the first proposal being pursued is the Sand Shore Road Highlands Redevelopment Area.

Ms. Swan then showed maps of the proposed area for redevelopment for Council to understand the project area-- the current preserved lands surrounding Lot 5.01, the mapped Highlands Open Water Buffers and Critical Wildlife Habitat depicted on Lot, and the net water availability of the HUC14 subwatershed within which Lot 5.01 is located. Ms. Swan commented that the proposed area would contain an approximate 4,296 sq ft one-story building; and that proposed disturbance is approximately 2.03 acres in an area that is currently disturbed. Ms. Swan also noted that the impervious surface requirement (70%) is met, the total Highlands Redevelopment Area is 18.92 acres, with an existing impervious surface of 13.46 acres, or 71.17%

Ms. Swan then went on to say that the Staff recommendation is to approve the proposed Highlands Redevelopment Area designation subject to the following conditions:

1. Encroachment into a Highlands Open Waters buffer shall be entirely within a previously disturbed area, which would not result in a net impact to the functional value of the buffer and therefore qualifies for a waiver;
2. Township of Mount Olive commits to provide mitigation equal to 125% of the proposed consumptive water uses through on-site recharge or water conservation practices within the same site or HUC14 subwatershed to the maximum extent feasible;
3. Remainder of Lot 5.01 outside of the proposed Highlands Redevelopment Area be protected through a conservation restriction, specifically authorizing ecological restoration and maintenance; and
4. Stormwater regulations must be followed in the project design upon HPAA with redevelopment permitting, as part of the NJDEP permitting process. The Highlands Council expects that under the NJDEP waiver, the applicant shall supply a stormwater management plan that incorporates low impact development techniques as dictated by current NJDEP Stormwater Rules.

Mr. Richko asked for clarification on #1 – the encroachment into a Highlands Open Waters buffer. Ms. Swan responded to say that in order to see if a waiver is appropriate, the staff determines if there would be a negative impact on the buffer, and the finding was that the proposed encroachment would not negatively impact the already disturbed buffer. Mr. Richko asked if it determination was made due to the presence of the road. Ms. Swan noted that the proposed construction activities entail encroachment into the buffer (already disturbed), related to a wetland located across the street (Stephens Park Road) from Lot 5.01.

Ms. Swan stated that the applicant is Mount Olive Township and spoke to Catherine Natafalusy today and she apologized for not being able to attend the meeting today.

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*Mr. Alstede made a motion to approve the resolution. Mr. Francis seconded it.*

**Council Discussion**

Ms. Carluccio asked if the property to the right of the proposed redeveloped area which is currently part of the Highlands Open Water Buffers is a vegetated area. After discussion, it was determined that it is a detention basin. Ms. Carluccio thinks that the property has many problems, it is in the Conservation Zone, and the proposed project encroaches into open water buffer areas. She feels that redevelopment should not take place due to the buffer, that there would be new consumptive water use within a current deficit areas, it does not meet the standards for NJDEP septic density, and critical habitat would be impacted. Ms. Carluccio said the Council should be restoring this site and not redeveloping it. Ms. Carluccio further states that she cannot vote yes on this application.

*Mr. Cogger returned to meeting via teleconferencing at 4:09pm.*

Mr. Alstede commented that he will vote to support this application. He believes that NJDEP should have granted an Exemption 6. Mr. Alstede stated that the language used in the exemption clearly states: "Any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of this act, including but not limited to new structures, an addition to an existing building or structure, a site improvement..." Mr. Alstede further states that this application should not be before the Council for a Highlands Redevelopment Area Designation in the first place and it is the classic hardship created by the NJDEP.

Mr. Francis stated that 71% impervious coverage is supported by the governing body and a deed restriction is in place. Mr. Holtaway stated the federal law is on their side for religious land use. Mr. Richko asked if this was not a religious institution would it make a difference. There were various discussions amongst Council Members regarding environmental constraints and exemptions put in place for a redevelopment/improvement of property.

Ms. Swan stated that the Council will see more of these projects because the waiver provision is available to municipalities and landowners in the Preservation Area. Ms. Swan then asked Mr. Borden, per Ms. Carluccio's request, to address the waiver provision in the law.

Mr. Borden stated that the redevelopment waiver is intended to grant relief from the various requirements of NJDEP's Preservation Area regulations, waivers may also be granted from the RMP provisions. He explained the three waivers in the Highlands Act: Public Health and Safety; Redevelopment; and a Takings Avoidance Waiver. This particular case is that Mount Olive came in as a redevelopment waiver for 71% impervious surface. Mr. Borden further stated that the purpose of the waiver was that resource protection rules could be waived by NJDEP if it is demonstrated the proposed project would have de minimis impact on environmental resources.

Ms. Carluccio stated that the Council will probably see many of these types of projects in the future and feels that the Council should be conservative in its approach and how we define what a good redevelopment area is with respect to the very important resource protection provisions of the

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RMP. Ms. Carluccio is concerned of the precedent that approving this project will set. Mr. Alstede stated that the Legislature wanted the Council to exist with a different mindset than the NJDEP. Otherwise, the Council would never been created. The Legislature crafted this law so that the Council could deliberate and understand/counterbalance the NJDEP-- that is why the Highlands Council is here.

**Public Comments**

**Nicholas Wunner, Engineer for Jehovah's Witness** – Mr. Wunner stated that each one of those white areas on the mapping presented is existing industrial buildings. Mr. Wunner stated that all have their stormwater management and septic systems. The identified detention basin on the corner was built to handle the three lots and is more than adequate to treat stormwater from the proposed construction on Lot 5.01. He noted that the municipality been working with the NJDEP for about four or five years. The entire property (several lots) were owned by the same person in the 70's and then subdivided into those industrial lots at the time.

**David Peifer, Association of New Jersey Environmental Commission** - Mr. Peifer agrees with Ms. Carluccio's comments regarding the Highlands Open Water Buffers. Ms. Peifer urges Council to take a broader view of the redevelopment area and see how it fits in a more regional context, before Council approves it. In a larger context the entire redevelopment area may be qualified for a waiver.

Ms. Swan stated that the other existing buildings qualify for Exemption 4 and will allow them to reconstruct up to 125% of the impervious surface. Mr. Borden reiterated that the applicant can either develop under Exemption 4 if the zoning changes or a redevelopment area if the zoning changes.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey also urges Council take a broader view of this project. Council has before them a redevelopment proposal for all six of these lots. Mr. Frey feels there are larger ramifications (particularly if Mount Olive changed its zoning and Highlands exemptions were available to the lots other than Lot 5.01.)

Ms. Swan clarified that the applicant has to still go through the HPAA process with the NJDEP. Council staff tries to coordinate with the NJDEP in advance of this so we do not take an applicant through the process to the NJDEP just to be denied. Mr. Borden stated that there is a coordination process through the HPAA in which NJDEP must consider the RMP and work with Highlands Council staff when considering the approval. Mr. Borden noted that he Highlands Council would look at each proposal for a lot as a separate project and provide comments and consistency analysis to NJDEP. If the Highlands Council determined that a proposed project should not be approved it would recommend to the NJDEP that an HPAA should not be issued.

Ms. Carluccio feels that regarding such projects, memorializing the Resolution would be important.

**Wayne Najduch, a resident of Independence Township** – Mr. Najduch supports Ms. Carluccio's position and urges Council to use extreme caution with redevelopment. Council can easily set a precedent and potential impact to the water system.

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**David Shope, owns property in Lebanon Township** – Mr. Shope stated that this should be a very straight forward application. Mr. Shope encourages the Council to vote for it and move on.

**Erica Van-Euken, New Jersey Coalition Association** – Ms. Van-Euken states that she is personally on the fence with this application. Ms. Van-Euken states that the Coalition likes to support redevelopment because the Coalition feels it is a better option, but does echo the concerns of Ms. Carluccio and would like to see them addressed before the Coalition can fully support this project.

Mr. Alstede read from the RMP that redevelopment is a planning tool that converts underutilized areas to adapt their uses and approach. Ms. Swan stated it is a very complex matter of getting the 70% Impervious Surface and that there are two more applications similar to this application currently being worked on for Council's consideration.

*All members present and on teleconferencing voted on the Resolution by roll call. The Resolution was APPROVED 8-2.*

**Resolution - Consideration for Plan Conformance Grant for Hampton Borough Feasibility Study**

Ms. Swan introduced the proposed Resolution and acknowledged Ms. Hirsch who is here today for this Resolution and apologized for the wait. Ms. Swan stated that Hampton Borough is a conforming municipality and approached Council to amend their Petition for Plan Conformance. The Council staff made a recommendation to the Council that an amended Petition was not ripe but that a feasibility study was appropriate at this time. Ms. Swan provided a history of a 1988 Settlement Agreement that created an affordable housing zone in Hampton for a 300-unit development to satisfy a 27 unit rehabilitation obligation through a contribution of \$270,000 (\$10K per unit). The proposed 300-unit development did not include affordable housing on site and was to be located in the Preservation Area. In 2010, Hampton Borough filed a Fair Share Plan and Housing Element with COAH seeking to remove this site and fulfill its rehabilitation obligation through other mechanisms and filed an action in the Law Division to set aside the Agreement.

The Highlands Council approved Hampton Borough's Petition for Plan Conformance with conditions on November 19, 2010. Hampton Farm LLC submitted comments objecting to the Council's finding that the proposed 300-unit development is inconsistent with the policies of the RMP. The Highlands Council's comment and response document specifically stated that "the Council recognizes that some development may take place in the Planning Area portion of property in a way that could be found consistent with the RMP, Hampton's proposed Highlands Area Land Use Ordinance, and the Mount Laurel doctrine." Ms. Swan then showed the Council a map and photo showing the Hampton Farm site within Hampton Borough.

Ms Swan further stated that on April 26, 2011, Hampton Borough formally requested an Amended Petition for Plan Conformance to address the potential to provide affordable housing on the Hampton Farm LLC site and requested financial and technical assistance to examine the maximum



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feasible development potential of the site. Hampton Borough specified that the Supreme Court's pending review of COAH's Growth Share rules makes it impossible to quantify the Borough's obligations but that the Hampton Farm LLC site likely could have a role in satisfying yet to be determined obligations. Highlands Council Staff recommends that it is premature to consider an Amended Petition absent detailed information that the Hampton Farm LLC site may be developed consistent with the RMP. In addition, staff recommends that the site feasibility issues be considered in a broader context through examination of infrastructure issues at a municipal scale. Ms. Swan then went back to the map to show that the existing Borough homes are served by public water but septic systems rather than a wastewater system.

Ms. Swan noted that staff recommends that the Highlands Council approve financial and technical assistance to enable Hampton Borough to examine:

- 1) the feasibility of the provision affordable housing on Block 23, Lot 1 consistent with the Regional Master Plan;
- 2) the feasibility of a community on-site wastewater treatment plant to serve this site and proximate existing development in Hampton Borough presently served by individual subsurface systems; and
- 3) the feasibility of Highlands Center and/or Redevelopment Area designation(s) in the Borough based in significant part on water supply/wastewater utility planning (with an emphasis on efficient utility uses), such designation and associated planning and development activities offering opportunities to improve the economic sustainability of the Borough.

Highlands Council staff recommends that the Highlands Council authorize the execution of an amended Plan Conformance Grant Agreement with Hampton Borough to include a feasibility analysis for the above listed items in the amount of \$65,000.

Ms. Swan asked Mr. Borden to provide additional details regarding the matter. Mr. Borden stated after Council approved Hampton Borough's Petition last fall, Hampton Farms LLC filed an action in the Appellate Division challenging the Council's action and that matter is pending. On May 13<sup>th</sup> we posted our agenda and draft resolution and in response to that Hampton Farms LLC submitted a letter, dated May 18<sup>th</sup>, seeking that the matter be tabled for various reasons outlined in the letter. The major concern is that the Council is funding a matter regarding Hampton Borough feasibility of a sewer plant and that issue is pending in the Law Division with Hampton Borough and Hampton Farm LLC regarding the Mount Laurel litigation. He stated that in order to respond to several concerns, the resolution was amended to recognize that we received their letter of May 18<sup>th</sup>, state that the matter is pending in the Appellate Division and recognizing that Council staff has reviewed the objection letter that Council has in the packet. Mr. Borden specified that the Council has previously approved similar feasibility studies to examine the potential to built or expand infrastructure for centers and TDR receiving zones.

Mr. Richko asked why we would fund this study for a town that is under litigation. Mr. Borden specified that Hampton Borough is proactively addressing the potential future affordable housing obligations as a result of the Supreme Court pending matter that they will have to address somewhere. Hampton Borough may have to utilize the Planning Area of this site and may need to address a public health issues regarding failing septic systems in town.

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*Mr. Cogger left the meeting at 4:59pm*

Mr. Richko reiterated what Mr. Francis said before that COAH is forcing municipalities to plan for affordable housing in places they should not be. Mr. Francis stated that the Highlands Council has an obligation to assist Hampton Borough because it has chosen to conform. He stated that the legal protections for conforming towns require the Council to support such challenges. Ms. Letts asked what the money will be used for and thinks it is premature. Ms. Swan responded to say that Hampton Borough wants to know what is feasible on the site because the Borough is not sure and wanted Council to assist them with this study.

*Mr. Alstede made a motion to approve the resolution. Mr. Francis seconded it.*

Ms. Carluccio asked what the Borough would do if they did not get this money now. Mr. Borden stated that the litigation has placed this site in limbo for about 35 years and when a town is seeking assistance and potentially may develop this site as a cluster development to preserve agricultural lands, this Council has an obligation to move forward by getting the facts. The Borough knows that if the Appellate Division decision regarding COAH's growth share rules is upheld, that it will have to provide additional housing obligations. Ms. Carluccio stated that it is a guess. Mr. Borden agreed and advised that the Council should support municipalities that are proactively planning for affordable housing.

**Public Comments**

**Guliet Hirsch** – Ms. Hirsch stated that it is clear that the funding that is being requested is for expert reports that will be used in court. She summarized the ongoing litigation that the Borough filed and the Borough's need to prepare expert reports. She argued that if the Council funds the Borough, the Council has stepped outside a proper role and funding Hampton Borough litigation costs and sends a clear precedent to other towns. She argued that this study is a focused study on her client's site. She objected to the amount of funding. Ms. Hirsch stated that these are serious questions and urged the Council to slow down with this process.

Acting Chairman Schrier asked Mr. Borden to respond to Ms. Hirsch's comments regarding the grant funding and the scope of funding.

Mr. Borden specified that the Highlands Council has provided this level of funding for similarly situated municipalities with infrastructure limitations. This planning is broader than this site. When the Highlands Council adopted the Regional Master Plan they mandated that the towns meet their constitutional affordable housing obligations by either filing with COAH or with the Courts. Therefore, the Council has an obligation to provide financial assistance to conforming municipalities should they file with COAH or the Court. In this case Hampton Borough is in Court and the Highlands Act requires the Council to provide grants for the reasonable costs associated with this Plan Conformance requirement.

**Council Comments**

Ms. Carluccio commented that she is very enlightened by Ms. Hirsch's comments. Ms. Carluccio stated that if this is used in litigation, Council is obligated to do this and we are only fulfilling our

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
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responsibilities. Ms. Letts asked how we came up with the \$65,000 number. Ms. Swan responded that Council staff did a breakdown on this and read the particular breakdown to Council.

Mr. Holtaway stated that funding sources need to be looked at closely. Ms. Swan noted that an Amended Plan Conformance Grant Agreement would be required and invoices need to be examined by staff very carefully. Council staff is very careful about our grant funding. Ms. Swan stated that once the work is completed and once Council pays out on it, it is a final document. Mr. Alstede responded that he would like to make a motion to amend the resolution to state that the Council empowers Mr. Holtaway to monitor the grant funding for Hampton Borough's feasibility study. Ms. Kovach seconded the amendment. Ms. Hirsch stated if public documents are going to result in this funding process, will the documents be available. Ms. Swan stated that draft document may be prepared but they will be finalized and then funded through reimbursement of costs and the final documents will be posted. Mr. Borden proposed language to the resolution to add that Council has appointed Mr. Holtaway to monitor the preparation and implements of the Amended Plan Conformation Grant Agreement.

*Mr. Cogger was no longer in attendance for the vote.*

*All members present voted on the Resolution by roll call. The Resolution was APPROVED 9-0.*

### **Public Comments**

**Hank Klumpp, owns a farm in Tewksbury** – Mr. Klumpp attended a forestry meeting last night and stated that staff member Jeff LeJava did a wonderful job on his TDR presentation. Mr. Klumpp realizes he had all of these credits but stated that they did not have any value. Mr. Klumpp asked how Council can help farmers if potential development is not there. Mr. Klumpp asked why the farmers should still need to do farmland assessment. Mr. Klumpp also spoke about last month's minutes, in particular his written comments that he submitted were not attached. Ms. Swan responded that his written comments are attached as part of the official record.

**Wayne Najduch, a resident of Independence Township** – Mr. Najduch made a recommendation to Council to speak closer into the microphone so people in the back of the room may hear all comments.

**David Shope, owns property in Lebanon Township** – Mr. Shope submitted an article and hopes it will be circulated, two reports released on the prevailing notion that family farmers are earning record incomes and describe a shortage of credit available to farmers. Mr. Shope also attended the New Jersey Forestry Ice Cream Social and asked when you sell a TDR credit is it taxed on regular income or on capital gains. Mr. Shope also spoke about the water rates of NJWSA and noted that comments were not submitted by supporters of the Highlands Act. Mr. Shope also added that the Water Supply Authority has approved Donald Trump's golf course to irrigate the property. In conclusion, Mr. Shope stated that his comments were not accurately recorded for March's minutes, in particular regarding Mr. Smith as a Land Use Attorney. Mr. Shope compared the Highlands Council to the Nuremburg Trials and described members as psychopaths.

Acting Chairman Schrier commented to Mr. Shope that he found his comment to be very offensive.

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Mr. Visioli urged Acting Chairman Schrier to limit the public comments to three minutes.

Acting Chairman Schrier made reference to a comment made earlier regarding a formula to address land owner equity. Acting Chairman Schrier suggested that someone come up with a formula for land owner equity and present it to the Legislature.

*Acting Chairman Schrier adjourned the meeting at 5:41pm.*

**CERTIFICATION**

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

Date: 6/16/11

Name: Annette Tagliareni  
Annette Tagliareni, Executive Assistant

**Vote of the Approval of  
These Minutes**

	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede			✓			
Councilmember Carluccio			✓			
Councilmember Dougherty						✓
Councilmember Francis			✓			
Councilmember Holtaway			✓			
Councilmember Mengucci					✓	
Councilmember Richko		✓	✓			
Councilmember Schrier	✓		✓			
Councilmember Visioli			✓			
Councilmember Walton					✓	
Chairman Rilee			✓			

**PUBLIC COMMENTS SUBMITTED**

# New Reports Dispel Notions of Booming Farm Sector

WASHINGTON — Two critical reports released this week contradict the prevailing notion that family farmers are earning record incomes and describe a shortage of credit available to farmers.

While the USDA touts boom times for U.S. farmers, "Still Waiting for the Farm Boom," written by Tufts University's Timothy A. Wise, reports that family farmers are worse off, despite high crop prices.

High prices have been gobbled up by rising expenses; government payments have fallen; and more recently, the recession has significantly decreased the off-farm income that small to midscale family farmers depend on to make ends meet.

Shedding more light on the financial reality of family farmers, a coalition of farm groups released a survey of farm credit counselors and advocates, which found that farmers have had difficulty accessing credit since 2009.

The report, "Don't Bank On It,"

also found that banks were rejecting farmers for loans more frequently and that demand for government farm loans was rising. Eighty-five percent of those surveyed reported that farmers had more difficulty accessing credit.

"Even with high crop prices, our phones are still ringing at the same pace," said North Carolina farmer advocate Benny Bunting. "In this economic crisis, bankers are reducing their risks by requiring more collateral and putting more conditions on loans, making it harder for farmers — especially small- and midscale family farmers — to get the credit they need to farm this spring."

Farmers of any scale rely on loans to purchase seeds and fertilizer that keep their operations running. Farmers who cannot access timely credit face economic uncertainty that can threaten the viability of their farms.

The credit crisis struck at the same time many farmers, especially hog and dairy producers, ex-

perienced sharply declining prices. Farm households faced layoffs, loss of health care coverage and rising household debt at the same time that banks were tightening lending conditions.

The Federal Reserve Board reports that farm loan delinquency rates tripled between 2007 and the first quarter of 2010. These factors combined to endanger the economic security of many farmers. Almost all of those surveyed (86 percent) reported higher demand for farm credit counseling services.

"Farm Aid's farmer hot line has been flooded with calls since the start of the economic crisis, with most farmers calling for financial and credit help," said Willie Nelson, president of Farm Aid. "Farmers are the backbone of our economy. We will only rebuild our economy if our farmers have access to available, affordable credit and fair prices."

Still Waiting for the Farm Boom examines 2009 USDA data for farms with gross sales of \$100,000

to \$250,000, finding that these small- to midscale family farms:

- Had household income 28 percent below 2007 levels and 21 percent lower than the average for 2000-06, when crop prices were considerably lower.
- Earned just \$19,274 on average from farming, including government payments.
- Saw a steep drop in off-farm income, an average of about \$35,000, which represented a decline of 24 percent from 2007.

The credit survey's key findings include:

- 74 percent reported that the number of farmers that could not access credit in 2010 was higher than in recent years; 33 percent reported that it was significantly higher.
- 70 percent reported that the number of commercial farm loan rejections was higher since the beginning of 2009.
- 62 percent of farm credit counselors reported that farm household financial difficulties increased the

number of loan rejections; one-fifth of those surveyed volunteered that layoffs from off-farm jobs contributed to loan rejections and two-fifths volunteered that the loss of health care contributed.

"These two reports come at a time when farmers and their families face the challenge of getting their crops in the ground," said Ben Burkett, Mississippi farmer and president of the National Family Farm Coalition. "We are hearing of major shortfalls in funds available by the Farm Service Agency (FSA) to meet the credit needs of farmers."

"This will cost our farmers their farms and increase the loss of jobs in our rural economy in the midst of the budget crisis on the state and federal level," he said.

For a downloadable PDF of "Don't Bank On It," go to [www.farmaid.org/credit](http://www.farmaid.org/credit). To access "Still Waiting for the Farm Boom," visit [http://www.ase.tufts.edu/gdae/policy\\_research/FarmIncome.html](http://www.ase.tufts.edu/gdae/policy_research/FarmIncome.html).

Source: Farm Aid.

Comments submitted at Highlands Council Meeting  
on May 19, 2011 by David Shope.  
Page 1 of 1

Remarks by Michael Keady  
Public Hearing on Holland Township Petition  
May 19, 2011  
Chester, NJ

My name is Michael Keady, and I'm the chairman of the Holland Township Environmental Commission. I'm here today to offer my support for your approval of Holland Township's Petition for Plan Conformance. Following the Highlands Plan will protect Holland's many C-1 streams and will preserve our rural environment.

I'd also like to offer my praise and thanks for the outstanding work done by the Council's staff in working with our township over the past few years. It will not surprise you to hear that when the Highlands Act was passed in 2004, Holland was wary, as many municipalities were, feeling that the Act was an intrusion on Home Rule.

However, once Holland began exploring the implications of conforming to the RMP, Eileen Swan and Tom Borden gave several presentations to the citizens and municipal governing body. They gradually made it clear that there were real advantages to conforming, and that the vision set forth in Holland's own Master Plan could best be achieved through conformance. I'm sure they missed many a dinner with their families, but we are eternally grateful for the time and energy they put into enlightening our community – as they did in scores of other municipalities across the Highlands Region.

As time went by, I heard from our township's leaders nothing but praise for the staff they were working with. The lack of bureaucracy. The quick turn-around on answers to our questions. People who actually answered their phones.

We fully realize that if our Petition is approved today, we have lots of work ahead of us. From what I see, our municipal leaders are committed to accomplishing that work as quickly as possible.

I'm also a member of the Planning Board in Holland. I look forward to the day when an applicant's attorney appears before our board and says that their application meets all the requirements of our ordinances – and what he's talking about is the Highlands Area Land Use Ordinance.

Again, thank you for your professionalism, expertise, and caring. We look forward to continuing our productive relationship.

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