

**2018-10**  
**HIGHLANDS CAPITAL PROJECT REVIEW**  
**KINNELON SHELTER AND COMMUNITY CENTER**  
**KINNELON BOROUGH, MORRIS COUNTY, BLOCK 45502, LOT 119**

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

**WHEREAS**, Section 16 of the Highlands Act, N.J.S.A. 13:20-16.b., states that within the Preservation Area of the Highlands Region, any capital or other project of a State entity or local government unit that involves the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more shall be submitted to the Highlands Council for review and the Highlands Council after review, shall have the power to approve, approve with conditions, or disapprove the project and no such project shall proceed without the approval of the council; and

**WHEREAS**, the Kinnelon Borough (Kinnelon), a local government unit, is seeking to construct a Shelter and Community Center with adjacent natural surface athletic fields at Block 45502, Lot 119 (the Project); and

**WHEREAS**, the Project is located in the Preservation Area of the Highlands; and

**WHEREAS**, the NJDEP has adopted rules at N.J.A.C. 7:38-1.1 et seq. (Highlands Rules) that set forth, as provided for in Highlands Act, that the NJDEP may waive any provision of the rules to avoid the taking of property without just compensation; and

**WHEREAS**, on May 24, 2018, the NJDEP issued a HPAA with Takings Waiver to Kinnelon from the NJDEP Highlands Rules to avoid a taking of property without just compensation, and separately issued a WQMP site-specific amendment to facilitate the Project; and

**WHEREAS**, the Project is also subject to a capital project review by the Highlands Council under Section 16 of the Highlands Act, N.J.S.A. 13:20-16.b.; and

**WHEREAS**, the Highlands Council staff has conducted a capital project review and provided the Council with a Recommendation Report (Report) that concludes that the Project is consistent with the Regional Master Plan (RMP), with certain conditions set forth in the Report; and

**WHEREAS**, approval of the Project by the Highlands Council requires a waiver from the Prime Groundwater Recharge of the RMP in accordance with Policy 7G2 of the RMP, which allows such waivers to be issued in order to avoid the taking of property without just compensation, and Section 36a of the Highlands Act; and

**WHEREAS**, Highlands Council staff recommends that the Highlands Council approve such waiver based on the minimization and mitigation provided by Kinnelon and the issuance by the NJDEP of a HPAA with Takings Waiver and with conditions set forth in the Report; and

**WHEREAS**, over 97% of Kinnelon is in the Preservation Area and there are no alternatives to locating the Project; and

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**WHEREAS**, Kinnelon has demonstrated a compelling need for the Project; and

**WHEREAS**, Kinnelon has committed to significant minimization and mitigation efforts sets forth in Section 5.0 of the Report; and

**WHEREAS**, the Highlands Council released a draft of the Report for public comment between June 18, 2018 and July 22, 2018; and

**WHEREAS**, the Highlands Council duly considered the Report and all public comments on the Report and the Project; and


**WHEREAS**, pursuant to N.J.S.A. 13:20-5.j, no action authorized by the Highlands Council shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Council has been delivered to the Governor for review, unless prior to the expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE, BE IT RESOLVED**, that the Highlands Council, pursuant to its capital review authority under Section 16 of the Highlands Act, hereby:

- (1) adopts the findings of fact and conclusions set forth in the Report as its own and incorporates them by reference herein, including the conditions upon which this approval is based; and
- (2) approves a waiver for the disturbance of Prime Groundwater Recharge Area in accordance with Policy 7G2 of the RMP, and approves the Project as consistent with the RMP, with the conditions set in the Report, which are incorporated by reference herein.

**CERTIFICATION**

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on 16<sup>th</sup> day of August, 2018.

  
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Carl J. Richko, Chairman

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Vote on the Approval of This Resolution	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede			✓			
Councilmember Carluccio				✓		
Councilmember Dougherty			✓			
Councilmember Dressler						✓
Councilmember Francis			✓			
Councilmember Holtaway		✓	✓			
Councilmember James	✓		✓			
Councilmember Sebetich			✓			
Councilmember Visioli			✓			
Councilmember Vohden						✓
Councilmember Walton			✓			
Chairman Richko			✓			