

RESOLUTION NO. 143-2009

TOWNSHIP OF TEWKSBURY
SUBMISSION OF PETITION FOR PLAN CONFORMANCE
TO THE HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
FOR LAND IN THE PLANNING AREA

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act), N.J.S.A. 13:20-1 *et seq.*, finds and declares that protection of the New Jersey Highlands is an issue of State level importance because of its vital link to the future of the State's drinking water supplies and other significant natural resources; and

WHEREAS, the Highlands Act creates a coordinated land use planning system requiring the Highlands Water Protection and Planning Council (Highlands Council) to prepare and adopt a Regional Master Plan for the Highlands Region; and

WHEREAS, Section 13:20-15.a, of the Highlands Act states that for any municipality located wholly in the Planning Area or for the portion of a municipality lying within the Planning Area, the municipality may, by ordinance, petition the Highlands Council of its intention to revise its master plan, development regulations and other regulations, as applicable to the development and land use of land in the Planning Area, to conform them with the goals, requirements and provisions of the Regional Master Plan (Plan Conformance), and

WHEREAS, the Township of Tewksbury is located in the Highlands Region with lands lying within the Planning Area, as defined by Section 7 of the Highlands Act; and

WHEREAS, the Highlands Council prepared and distributed to the Highlands municipalities Plan Conformance Guidelines outlining the process and procedures for petitioning the Highlands Council for Plan Conformance, which includes a comprehensive package of planning and implementation documents that meet the requirements of the Highlands Act, the Regional Master Plan and the Highlands Plan Conformance Guidelines; and

WHEREAS, Plan Conformance by the municipality is strictly voluntary for lands in the Planning Area, and the Township of Tewksbury may at any time voluntarily revise its master plan, development regulations and other regulations as applicable to the development of use of land in the Planning Area, to conform them to the Regional Master Plan; and

WHEREAS, at any time during the Plan Conformance process, the Township of Tewksbury may withdraw from the Plan Conformance process and any approvals, rejections or conditions of its revised master plan or development regulations recommended by the Highlands Council during the Plan Conformance process, will not be binding on the Township of Tewksbury; and the Township of Tewksbury may choose not to obtain conformance with the Regional Master Plan for the lands lying within the Planning Area; and

WHEREAS, should the Township of Tewksbury make the determination that the Township of Tewksbury shall petition the Highlands Council of its intention to revise its master plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, to conform them with the goals, requirements and provisions of the Regional Master Plan and Plan Conformance Guidelines, the Township of Tewksbury shall enact an ordinance setting forth such intention, as required by the Highlands Act; and

WHEREAS, upon application of the Township of Tewksbury the Highlands Council has made, or will make, grant funding and other financial and technical assistance available to the Township of Tewksbury for the reasonable costs associated with the revision of the master plan, development regulations or other regulations, as applicable to the development and use of lands in the Planning Area, which are designed to bring those plans and regulations into conformance with the Regional Master Plan and the Highlands Council shall provide grant funds for all mandatory aspects of Plan Conformance in accordance with the Plan Conformance Grant

Program, and may also provide grant funds for the discretionary aspects of Plan Conformance as determined by the Highlands Council; and

WHEREAS, should the Township of Tewksbury formally withdraw from the Plan Conformance Process, grant funding awarded to the Township of Tewksbury up to the date of the withdrawal that has been appropriately utilized in accordance with the Plan Conformance Grant Program and applicable grant agreement shall not be reimbursable to the Highlands Council; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Tewksbury, County of Hunterdon, New Jersey, hereby submits this resolution of intention to revise its master plan and development regulations for Plan Conformance to the Highlands Council for that portion of our jurisdiction lying within the Planning Area in accordance with the Highlands Act, the Regional Master Plan, and the Highlands Plan Conformance Guidelines.

BE IT FURTHER RESOLVED that the Township of Tewksbury's Master Plan shall be used as a basis for evaluation for conformance with the Planning Area; and

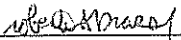
BE IT FURTHER RESOLVED that the Township Committee of the Township of Tewksbury wishes to express its concern with regards to issues it feels the New Jersey Legislature and/or the Highlands Council have left unresolved and urges both bodies to reverse, advocate for change and/or amend applicable law as indicated below. The Township's ultimate decision will depend on the Highlands Council's response to the issues below. The Township of Tewksbury's Master Plan shall be used as a basis for evaluation for conformance with the Planning Area. These issues include:

- 1). The dual appraisal method for landowners wishing to preserve their land through one of the many State, County and Local preservation programs was allowed to expire; it should be renewed for a minimum of 5 years, retroactive to the June 30 expiration, with any applications submitted during the expired period eligible for the dual appraisal method to determine value;
- 2). The Township re-affirms the settlement and accompanying ordinances with regards to Stavola Quarry LLC and does not seek changes to or an abandonment of said settlement as a result of the actions proposed in this resolution.
- 3). The type of septic systems allowed exclude "extraordinary" measures, such as mounded systems, soil replacement systems and the like to overcome depth to groundwater and depth to permeable strata limitations. This, in essence, rules out most septic system construction across the Township of Tewksbury as nearly all will require some type of extraordinary measure. The New Jersey Department of Environmental Protection (NJDEP) should re-address this through NJAC 7:9A to ensure property owners have multiple means of septic construction and re-construction available to them should an existing system fail.
- 4). The northern portion of Tewksbury is within the Agricultural Resource Area (ARA) mapped by the Council. The Land Use Ordinance states that the goal for the ARA is the protection and promotion of sustainable agriculture however the definition of agricultural or horticultural uses appears to be limited to food, forage, and fodder, including animal production. Equestrian uses in a non-production aspect, such as horse boarding and stabling for recreation are not specifically included. Tewksbury has a significant equestrian heritage, which is prominent across the Township. These uses need to be promoted to the fullest extent and the Highlands Council needs to consider these as part of the agricultural and horticultural definition.
- 5). The Township Committee wants to ensure that the Highlands Council position on litigation against a municipality that has opted in the Planning Area as part of the conformance process is one of protect and defend the action of the municipality where said action was in compliance and concert with the Highlands Regional Master Plan, as may be amended and any current and future Highlands Council regulations. Should the municipality not prevail on any litigation where it and/or counsel provided by the Highlands Council and/or State of New Jersey, the State of New Jersey fully covers the monetary judgment as awarded, not the taxpayers of the municipality.

6). The loss of value for landowners in the Preservation Area continues to mount with no source of adequate funding in place to compensate for this loss nor any mechanism developed to calculate this loss; the new regional planning approach and the more stringent environmental regulatory standards should be accompanied, as a matter of wise public policy and fairness to property owners, by a strong and significant commitment by the State of New Jersey to fund the acquisition of these lands;

CLERK'S CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a resolution adopted by the Township Committee of the Township of Tewksbury at a meeting of said Township Committee conducted on December 8, 2009.



Roberta A. Brassard
Municipal Clerk