

RESOLUTION #R-192-09

TOWNSHIP OF WASHINGTON (MORRIS COUNTY)
SUBMISSION OF PETITION FOR PLAN CONFORMANCE
TO THE HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
FOR LAND IN THE PRESERVATION AREA AND IN THE PLANNING AREA

WHEREAS, it is the position of the Township of Washington that the Highlands Water Protection and Planning Act (Highlands Act), N.J.S.A. 13:20-1, et seq. and the regulations and plans promulgated thereunder are based on untested and biased purported "scientific" data; and

WHEREAS, the Township of Washington is of the opinion that the protection of drinking water supplies and other natural resources is a laudable goal that should be the equal responsibility of all residents of the State and not just those who reside in the Highlands region; and

WHEREAS, the Township of Washington fears that the primary "science" involved in the drafting of the Act and its regulations was "political science;" and

WHEREAS, the Highlands Act directed the Highlands Council to prepare and adopt a Regional Master Plan for the Highlands Region; and

WHEREAS, the Highlands Act requires that within nine to 15 months after the effective date of the Regional Master Plan, or September 8, 2008, each municipality located wholly or partially in the Preservation Area shall submit revisions to the municipal master plan, development regulations and other regulations, as applicable to the development and use of land in the Preservation Area, as may be necessary to conform them with the goals, requirements and provisions of the Regional Master Plan (Plan Conformance); and

WHEREAS, Section 13:20-15.a, of the Highlands Act states that for the portion of a municipality lying within the Planning Area, the municipality may, by ordinance (emphasis added), 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

WHEREAS, the Township of Washington is located in the Highlands Region with lands lying within both the Preservation Area and 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; and

WHEREAS, the Highlands Council's Plan Conformance Guidelines require that a Petition for Plan Conformance be filed with the Highlands Council no later than December 8, 2009 for Preservation Area lands, which includes a comprehensive package of draft planning and implementation documents that meet the requirements of the Highlands Act, the Regional Master Plan and the Highlands Plan Conformance Guidelines; and

WHEREAS, in accordance with the Highlands Act and Plan Conformance Guidelines, the Highlands Council shall consider a Petition for Plan Conformance, and accept, reject or accept with conditions, a Petition for Plan Conformance, as it deems appropriate, to conform them to the Regional Master Plan; and

WHEREAS, since Plan Conformance by the municipality is strictly voluntary for lands in the Planning Area, the Township of Washington may at any time voluntarily 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 Regional Master Plan; and

WHEREAS, at any time during the Plan Conformance process, the Township of Washington may choose not to obtain conformance with the Regional Master Plan for the lands lying within the Planning Area, and any approvals, rejections or approvals with conditions of the revised municipal master plan and development regulations recommended by the Highlands Council during the Plan Conformance process **will not be binding** on the Township of Washington as they relate to the development and use of land in the Planning Area; and

WHEREAS, should the Township of Washington choose to conform its master plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, with the Regional Master Plan and Plan Conformance Guidelines, in accordance with a decision of the Highlands Council, the Township of Washington is required under the Highlands Act to enact an ordinance setting forth such intention; and

WHEREAS, upon application of the Township of Washington into the Plan Conformance Grant Program, the Highlands Council has made grant funding and other financial and technical assistance available to the Township of Washington for the reasonable costs associated with the revisions of the master plan, development regulations or other regulations, as applicable to the development and use of land in the Preservation Area and the Planning Area, which are designed to bring those plans and regulations into conformance with the Regional Master Plan; and

WHEREAS, the Highlands Council shall make grant funds available for all mandatory aspects of Plan Conformance in accordance with the Plan Conformance Grant Program, and shall also make available grant funds for the discretionary aspects of Plan Conformance as determined by the Highlands Council; and

WHEREAS, should the Township of Washington formally withdraw from the Plan Conformance process with regard to the Planning Area, grant funding awarded to the Township of Washington up to the date of 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

WHEREAS, the confluence of the Highlands Act, the Regional Master Plan, New Jersey Administrative Code provisions, COAH's Amended Third Round Rules, A-500 and Executive Order 114 have created impossible conflicting goals within the Township of Washington; and

WHEREAS, the disruption of municipal land use plans and goals and the loss of future ratables will continue to have a drastic negative financial impact on the Township and its residents; and

WHEREAS, there are simply too many unanswered questions for this Township Committee to determine with any degree of certainty whether Plan Conformance in the Planning Area is beneficial to the Township's interests or will require amendments to the master plan and land use ordinances in the Planning Area that are simply unacceptable; and

WHEREAS, this Township Committee wishes to go on record as vehemently objecting to the manner in which the value of land owned by its citizens has been wrongfully taken from them; and

WHEREAS, the Township of Washington believes that the approach that it has used to preserve thousands of acres of open space and farmland (i.e., negotiate in good faith and pay fair market value) is the well thought out, reasoned and appropriate approach; and

WHEREAS, the Township of Washington has serious material reservations about seeking Plan Conformance within the Planning Area but opines that it has no choice and therefore involuntarily agrees to proceed for the sole purposes of continuing to gather information and pursue answers, after which it will then proceed on the course that it determines is in the best interests of a majority of its citizens.

NOW, THEREFORE BE IT RESOLVED, that the Township Committee of the Township of Washington, in the County of Morris and State of New Jersey, with great reluctance and proceeding "under protest" hereby submits this Petition for Plan Conformance to the Highlands Council, as it relates to the development and use of land for the entire municipality, in accordance with the Highlands Act, the Regional Master Plan, and the Highlands Plan Conformance Guidelines. The Committee takes this action in reliance upon the expressed representations of the Highlands Council that the Township retains the right to withdraw that part of the Petition relating to the Planning Area at any time during the process up until an ordinance is formally adopted by the Township and upon the further representation that, should the Township decide to withdraw, it will not be required to reimburse the Highlands Council for grant monies used to develop the Petition and related documents under the Plan Conformance Grant Program; and

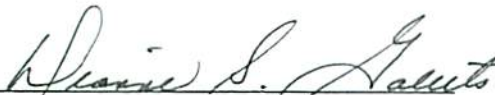
BE IT FURTHER RESOLVED, that should the Township of Washington choose to conform its master plan, development regulations, and other regulations, as they relate to the development and use of land in the Planning Area, with the Highlands Regional Master Plan in accordance with the Highlands Council's decision regarding a Petition for Plan Conformance, the Township of Washington shall enact an ordinance setting forth such intention, as required by the Highlands Act; and

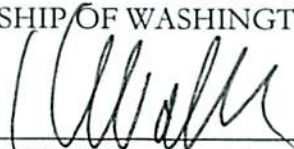
BE IT FURTHER RESOLVED, that the Township Committee respectfully urges the following:

- 1) That applications for NJDEP permits and waivers be diligently processed and not held in abeyance.
- 2) That legislation extending for a three-year period the deadline for dual appraisals be supported.
- 3) That funding for the acquisition of Preservation Area land be diligently pursued.

ATTEST:

TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF WASHINGTON


Dianne S. Gallets, Township Clerk


Kevin M. Walsh, Vice Mayor

I, Dianne S. Gallets, Township Clerk, do hereby certify that the foregoing resolution was adopted at a regular meeting of the Township Committee, held on November 16, 2009.


Dianne S. Gallets, Township Clerk


Date