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KIM GUADAGNO
Lt. Governor

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JACK J. SCHRIER
Acting Chairman

EILEEN SWAN
Executive Director

MEETING AGENDA

Thursday, June 24, 2010 4:00pm

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES – May 20, 2010
6. ACTING-CHAIRMAN'S REPORT (and Council Member Reports)
7. EXECUTIVE DIRECTOR'S REPORT
 - a. Update on Highlands Plan Conformance
 - b. Update on HDC Allocation Determinations
 - c. Update on Highlands Project Review
 - d. Summary of Delegated Actions pursuant to Resolution 2009-57
8. WORK SESSION - Discussion of Highlands Plan Conformance - Draft Consistency Review and Recommendations Reports and process for Plan Conformance review
9. PUBLIC COMMENTS (*please note – the Council requests that public comments be limited to three (3) minutes per person. Questions raised in this period will not be responded to at this time but, where feasible, will be followed up by the Council and its staff).*)
10. EXECUTIVE SESSION (if deemed necessary)
11. ADJOURN

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF JUNE 24, 2010

PRESENT

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

VIA TELECONFERENCE

MICHAEL FRANCIS)

ABSENT

GLEN VETRANO)

CALL TO ORDER

The Acting Chairman of the Council, Jack Schrier, called the 95th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:09 pm.

ROLL CALL

Council member Francis called in to the meeting. Mr. Vetrano was absent. All other 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 MAY 20, 2010

Ms Kovach introduced a motion to approve the minutes. Ms. Letts seconded it. Mr. Vetrano was absent. All other members voted to approve. The minutes were APPROVED 10-0.

ACTING CHAIRMAN'S REPORT AND MEMBER'S REPORTS

Acting Chairman Schrier noted that there will be no meeting next month. The next scheduled meeting is August 19, 2010 at 1:00 pm. The Acting Chairman made a suggestion to move item 7d. on today's agenda after item 8 as the Work Session discussion should inform the delegation issue. Ms. Swan agreed. Mr. Schrier had nothing further to report.

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EXECUTIVE DIRECTOR'S REPORT

Plan Conformance Update

Ms Swan updated the Council on Plan Conformance activities. To date, 40 (of 55 submitted with Resolution/Ordinance) Petitions for Plan Conformance have been deemed Administratively Complete and posted to the Highlands Council website. Wharton Borough's Petition was received on June 14, 2010 making it the 55th municipality to petition. Council staff has completed review of 13 full Petitions, thus far, and prepared Draft Consistency Review and Recommendations Reports ("Draft Consistency Reports") for each. Nine of these are now under internal review, while four have been completed. Draft Consistency Reports were sent to Byram Township, Chester Township, Lebanon Borough and Mahwah Township. For Byram Township, specific conditions related to the proposed Highlands Village Center are included. Ms. Swan then showed a map of the Highlands Area to represent the towns that are working through Plan Conformance.

Regarding the Plan Conformance Grant Program, a total of \$238,217.25 has been paid out since the May 20, 2010 meeting to 9 participating municipalities. To date, a total of 53 municipalities have sought at least partial reimbursement for their Plan Conformance Grants totaling over \$1,557,000. Regarding the Initial Assessment Grant Program, there are 51 Highlands municipalities that have prepared an Initial Assessment Report. A total of 72 municipalities and 4 counties have signed up for the Initial Assessment Grant for a total of \$1,134,767 encumbered dollars. Ms. Swan then showed the chart below which represented the average payments made to towns with the base amount. On average, the payments to date are within the estimated base amount.

	<u>Base Amount</u>	<u>Average</u>	<u>Number of Towns</u>
Module 1	\$15,000	\$13,224	53
Module 2	\$10,000	\$ 5,977	45
Module 3	\$7,500	\$ 7,472	22
Module 4	\$2,000	\$ 3,152	33
Module 5	\$2,500	\$ 5,032	27
Module 6	\$5,000	\$ 2,954	23
Module 7	<u>\$8,000</u>	<u>\$ 5,758</u>	20
Total	\$50,000	\$43,569	

Ms. Letts asked if towns are required to invoice according to each specific module. Ms. Swan replied that Highlands staff has strict accounting procedures and requests that the towns indicate the staff person that works on the module, their rate, the date the time spent and the issue they are working on. Plan Conformance deliverables for each of the Modules are also reviewed to ensure that the invoices reflect reasonable costs as required by the Highlands Act.

Byram Township worked extensively with the Council as a pilot project for the development of the first proposed Highlands Center and held numerous extra public meetings. The proposed Highlands Center is critical to Byram in order to facilitate sustainable economic development and redevelopment. They also had to revise their Housing Element and Fair Share Plan as they decided to conform in the Planning Area. Due to these unique circumstances they have expended the following amounts:

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Module 1 –	\$ 19,365
Module 2 –	\$ 5,882
Module 3 –	\$ 11,781
Module 4 –	\$ 1,550
Module 5 –	\$14,924
Module 6 –	\$ 9,401
<u>Module 7 –</u>	<u>\$ 9,992</u>
Total	\$ 72,895

Reflecting recent work on a Highlands Center and related issues, they submitted additional invoices of \$29,375 (Module 3: \$15,088, Module 5: \$11,823, Module 7: \$2,464) and this will use the remainder of the grant award of \$100,000. Additional work is necessary to respond to the Draft Consistency Report, to revise and finalize modules, and to adopt Modules 4 through 6. Accordingly, a grant award modification of \$25,000 is recommended.

Ms. Letts asked if Byram Township received the Initial Assessment Grant. Ms. Swan responded that the Initial Assessment grant is in all cases separate from the Plan Conformance grant. The Acting Chairman commented on the extra work that Byram performed as a pilot program and the benefit to the Highlands Council and other Highlands municipalities through these activities. Ms. Letts was concerned about precedent in this case. Ms. Swan further commented that if a town requires additional funding above the base amounts established by the Highlands Council, they are required to obtain approval by the Council ahead of time. In order to protect the Plan Conformance funding, Council staff is keeping a tight control on invoicing and reimbursements. Ms. Swan indicated that Byram Township's particular situation was unique also due to the recent and tragic loss of a Township staff member, a planner, and the need to bring in a new planning consultant. The Highlands Council consented, without objection, to approve the additional grant award for Byram Township.

Work Session

Ms. Swan continued her presentation with the Work Session on the Highlands Plan Conformance process which focused on the issuance of a Draft Consistency Review and Recommendations Report by Council staff. The Highlands Act requires that municipalities "submit to the council such revisions of the municipal master plan and development regulations ... as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan. After receiving and reviewing the revisions, the council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate."

To expedite the Plan Conformance process, model documents were prepared for Highlands municipalities. These models are being revised to reflect specific municipal issues. The model documents are:

- Environmental Resource Inventory – with maps and data tables
- Highlands Element for Municipal Master Plans – with maps
 - Preservation and Planning Areas
 - Preservation Area Only
 - Planning Area Only
- Highlands Land Use Ordinance – with maps
 - Also in 3 versions, as with Highlands Element

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Ms. Swan further presented the process after a Petition for Plan Conformance is deemed complete. The petition documents are posted on Highlands Council website, a Draft Consistency Review and Recommendation Report is prepared by staff, then there is a Local Review Period to address issues in the Report. Public Notice, Final Report, and Council consideration then follows. Ms. Swan made note that the Draft Consistency Review and Recommendations Report is not posted until notice is provided for the Public Comment Period. The public can track Plan Conformance Process through the Plan Conformance Petition Tracking Sheet to follow:

- Date a Petition is received by the Highlands Council
- Administrative Completeness
- Consistency Review and Recommendation Reports
- Municipal/County Review Period
- Public notice and public comment periods
- Highlands Council meetings to review Petitions

Byram, Chester Township, Lebanon Borough and Mahwah have been provided, and upcoming municipalities will be provided, a CD-ROM which includes the following specific items, including a staff review and mark-up of modules 3 through 7:

1. Transmittal Letter
2. Plan Conformance Grant Status Report
3. Draft Consistency Review and Recommendations Report
4. Module 3 (Fair Share Plan/Housing Element)
5. Module 4 (Environmental Resource Inventory or ERI)
6. Module 5 (Highlands Element of the Municipal Master Plan)
7. Module 6 (Highlands Land Use Ordinance)
8. Module 7 (Petition Support Materials)

Ms. Swan then gave a summary of the documents included with the transmittal letter to the municipality on a CD-ROM.

Draft Consistency Report

This Report summarizes the status of Plan Conformance and any issues identified in the review of work products for Modules 3 through 7, along with remaining items that need to be addressed prior to Highlands Council approval of Plan Conformance for the municipality. While Modules 4, 5 and 6 are based on models prepared by the Highlands Council, these models are refined at the local level to address specific issues for each municipality.

Plan Conformance Grant Status Report

This summary has all reimbursements to date under the 2009 Plan Conformance Grant. The summary indicates the dollar amount remaining, based on all invoices submitted, and references the additional grant funding that will accompany the Highlands Council formal approval of the Petition for Plan Conformance.

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Module 3 (Fair Share Plan/Housing Element)

Review forms completed by staff responding to the draft Housing Element and Fair Share Plan. The purpose for these reviews was to identify any potential RMP consistency issues prior to filing of a completed Housing Element and Fair Share Plan with COAH or the Law Division of Superior Court. Discussion regarding the final June 8, 2010 submittal is included in the Draft Report as appropriate.

Module 4 (Environmental Resource Inventory or ERI)

Municipalities have submitted a mark-up of the Highlands Council model ERI and Highlands Council staff responses are provided in the document as appropriate.

Module 5 (Highlands Element of the Master Plan)

Municipalities have submitted a mark-up of the Highlands Council model Highlands Element and the Council staff have provided responses in the document. Ms. Swan noted that the Council staff has modified the model Highlands Element since it was first issued to municipalities, to address a number of valuable recommendations from municipal professionals that were received after release of the 2009 version. The primary modifications include:

- Land Use Plan – Simplified Septic Density Provisions for use on a parcel by parcel basis where necessary
- Housing Plan - Added goals and objectives of RMP
- Historic Preservation Plan - Clarified that implementation of an Historic Preservation Ordinance is optional

Module 6 (Highlands Land Use Ordinance)

Municipalities have submitted a mark-up of the model Highlands Land Use Ordinance and Council staff provided responses in the document. In addition, parcel-based ordinance maps are being prepared by Council staff for each Highlands municipality. The Council staff has similarly modified the model Highlands Land Use Ordinance to address recent statutory changes and a number of valuable recommendations from municipal professionals that were received after release of the 2009 version. The primary modifications include:

- Revisions to the Highlands Act regarding impervious cover for solar installations.
- Clarified language on exclusions and exemptions, specifically including provisions for Planning Area delegation.
- Simplified septic system density ordinance.

Module 7 (Petition Support Materials)

Municipalities have submitted a mark-up of the model Municipal Self-Assessment Report and the Highlands Implementation Plan and Schedule. Ms. Swan noted that the Highlands Implementation Plan and Schedule is a critical component of the Council staff review. It includes estimated funds in support of ongoing Plan Conformance grants and estimates of how long the municipal public involvement and adoption process will require for each component. The final version, which will be adopted as a part of the Highlands Council resolution on Plan Conformance, will set the agenda for the following grant cycle and all anticipated Plan Conformance activities.

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Ms. Swan continued with the process of the Municipal Response Period. Municipalities have been requested to provide responses to the Draft Report and work products within 45 calendar days or more, depending on complexity. Ms. Swan noted that some towns are eager so it may be less than 45 days and other towns may request additional days, if needed. Municipal comments are encouraged on the Draft Report and all Module 3 through 7 work products. Upon completion of this process, the Highlands Council will release for public comment (via the Council's website) a Final Draft Consistency Review and Recommendations Report, along with clean copies of all Module 1 through 7 work products. Upon conclusion of the public comment period, a Final Consistency Review and Recommendations Report will be prepared for formal consideration by the Highlands Council.

In conclusion, Ms. Swan provided an overview of the Highlands Council action for the Plan Conformance process. Formal consideration by the Highlands Council on Plan Conformance Petitions is expected to begin in September and depending on complexities of the issues, it is anticipated that two to three municipal Plan Conformance resolutions could be heard each Council meeting. The major issues anticipated include:

- Schedule/Priority/Funding for next steps (e.g., Module 4 through 6 adoption, Water Use and Conservation Management Plans, Stream Corridor Plans)
- Highlands Center designations
- Map Adjustments
- Highlands Redevelopment Areas
- TDR Receiving Zones
- Substantive deviations from model documents, such as alternative methods for meeting RMP policies and objectives
- Delegation of authority

Ms. Swan commented that the Council may have to consider having two meetings per month to address the numerous Petitions. Acting Chairman Schrier mentioned that Council started out with two meeting per month. Ms. Swan mentioned that advance notice is required for the Governor's office prior to the meetings and should be considered in the scheduling. Acting Chairman Schrier commented that Council will need to consult to address this time and how to efficiently accommodate the municipalities. Ms. Letts added that Council cannot leave the towns hanging.

TDR Program Update

Ms. Swan then provided an update on the Highlands TDR Program. On June 9, 2010, the HDC Bank extended offer letters to five properties owners that qualified for hardship consideration during the Bank's first hardship round. Four of the property owners qualified on the basis that they have extenuating financial circumstances; the fifth property owner qualified on the basis that it just missed qualifying for Exemption #3 under the Highlands Act. If all 5 accept, the Bank would acquire 107.75 HDCs valued at \$1,724,000; a total of 220.89 acres will be placed under deeds of easement. To date, 2 property owners have accepted the offers.

Also on June 9, 2010, the HDC Bank authorized a second hardship round as follows:

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- HDC Allocation Applications will have to be submitted to the Highlands Council by July 15, 2010, for consideration, while HDC Certificate Applications will have to be filed with the HDC Bank by August 12, 2010.
- The HDC Bank will consider those applications that qualify for hardship at its next meeting on September 2, 2010.

Ms. Swan noted that any landowner may go on our website to see the range of credits for their property.

Ms. Letts asked Council how we are doing with TDR receiving zones. Ms. Swan commented that staff continues to work with the 11 towns presently engaged in the TDR feasibility grant. However, Ms. Swan noted that the Council's ability to work with the additional municipalities on TDR receiving zones can be assessed after the State budget is approved. She noted that the incentive grant programs are important but that the required grant funding to pay for the reasonable costs associated with Plan Conformance takes priority.

Delegated Actions

Ms. Swan continued with her presentation to discuss the Council's delegation of certain actions to the Executive Director. On November 12, 2009, the Highlands Council specifically delegated actions in Resolution 2009-57. The Resolution specifies that the Highlands Council shall reassess this matter on or before July 1, 2010 and annually thereafter.

In general, the Highlands Council retained authority for the substantive determinations regarding municipal and county Plan Conformance. The delegated authority generally addressed more ministerial determinations (such as exemptions) and consistency determinations where other State agencies are making final determinations.

The Resolution delegated five different categories to the Executive Director:

- 1) Plan Conformance recommendations and determinations on RMP Updates to verify updated, relevant factual information
- 2) HDC Allocation Determinations and any related documents and deeds of easement
- 3) Federal, State and regional agency coordination, review and issue determinations on all requests for consultation, coordination, recommendation or consistency determinations
- 4) Highlands Act exemption determinations
- 5) Review and issue comments or determinations on the following matters, unless Council review is required: adoption of any master plan, development regulation, or other regulation by a local government unit not in Plan Conformance; development applications submitted to and approved by local government units; call-up of local government unit approvals, and capital and other projects of State entities and local government units.

Ms. Swan provided a summary of actions taken since November 2009 for Plan Conformance recommendations and determinations on Petitions and RMP Updates to verify updated, relevant factual information, the following:

- Petition Completeness Determinations: 40 deemed complete; 16 currently deemed incomplete
- Draft Consistency Review and Recommendations Reports: Four Draft Reports issued to Byram, Chester Twp, Lebanon Borough and Mahwah

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- **RMP Updates:** 146 reviews for 18 municipalities. Six formal RMP Update reports for municipalities to date.

Ms. Swan showed the Municipal and County Plan Conformance Petition Tracking Sheet which is available on the Highlands website so that the public can follow the process:

http://www.highlands.state.nj.us/njhighlands/planconformance/pc_tracking_sheet.pdf

Municipality	RMP Update	Not RMP Update	More Info Required	Total
Bethlehem Twp		5	1	6
Clinton Town	1	5		6
Clinton Twp	2	8	2	12
Hampton Borough	2	6		8
Lebanon Borough	1	2		3
Randolph Twp	9	6	1	16
Washington Twp (Morris)	1	2	8	11
Wharton Borough	1	12	2	15
Passaic County	2			2
Far Hills Borough		2		2
Vernon Twp	2	6	3	11
Alpha Borough	3	8		11
Lopatcong Twp	2	1		
Hackettstown	14	4		18
Phillipsburg	1	3		4
Pohatcong		4		4
White Twp	1	9	4	14
Total	42	83	21	146

To conclude Ms. Swan noted other actions taken since November 2009 on HDC Determinations and Highlands Project Review. Regarding HDC Allocation Determinations: Eleven (11) HDC Allocation Determinations, three requested HDC Allocation Reconsideration, and no Deeds of Easement. Regarding Consistency Determinations: Four (4) Consistency Determinations, and Two (2) Exemption Determinations. Again the Council and public were shown a tracking sheet available on the Council website so that the process is transparent.

There was discussion amongst Council members to reassess the delegated actions. It was decided that the Council was presently comfortable with the existing process. Mayor Holtaway suggested that the delegated actions be reassessed within six months rather than a full year. Accordingly, the

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Council agrees to reassess this issue at the January 2011 meeting or at February 2011 meeting, as a snow date.

Council Comment

Mr. Alstede asked for clarification regarding the JCP&L determination by staff and uses within historic districts in general. Mr. Alstede asked staff if the JCP&L was a recommendation or a decision and if the Tewksbury historic district has an ordinance. Ms. Swan responded that it was a final decision in response to NJDEP's condition and that the historic district was local and was also approved as a State and Federal historic district. Mr. Holtaway mentioned that he attended the public meeting on behalf of the Council and that the dimensions of the structure are overwhelming for the historic district. There was a discussion by Council members on the existing policies of the Highlands Act and the RMP with respect to the placement of substation and the Council consensus was that the existing policies provide sufficient guidance for applicants. Mr. Alstede commented that additional Highlands Council coordination with NJDEP would assist applicants in the future and would promote more efficient governance.

Public Comment

Jon Holt of Tewksbury Township thanked the Council and the Highlands staff on the decision regarding the JCP&L substation. Mr. Holt also submitted documents regarding the safety concerns and commented that he hopes JCP&L will look at other sites.

Julia Somers, Highlands Coalition – Ms. Somers commented that there is great action coming up fast for Council and public interest in those actions. Having access to documents well in advance before public hearings in towns is crucial. She further comments that other locations could have been considered regarding the JCP&L substation.

Mr. Visioli left the meeting

Mary Sayler Kalb of Tewksbury Township wanted to thank the Council and staff for their decision as the application has affected her health.

Mr. Holtaway made a motion to adjourn the meeting, Ms. Carluccio seconded it and the meeting was adjourned at 5:37pm.

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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: 8/19/10

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 Cogger			√			
Councilmember Francis			√			
Councilmember Holtaway			√			
Councilmember Kovach						√
Councilmember Letts		√				
Councilmember Richko			√			
Councilmember Vetrano						√
Councilmember Visioli	√		√			
Councilmember Schrier			√			

Newark Firefighters Union, Inc.

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President

LUTHER ROBERSON III
Vice President

REYNIEL IRIZARRY
2nd Vice President

JAMES WILLIS
Treasurer

DANE RISPOLI
Recording Secretary

TO: Governor Jon Corzine

CC: Jeanne Fox, BPU President

Mark Mauriello, DEP Commissioner

Tewksbury Township Committee

Fairmont Fire Department

Tewksbury First Aid and Rescue Squad

Donald Lynch, JCP&L

Ronald K. Chen, NJ Public Advocate

FROM: Newark Fire Fighters Union

Charles H. West, President

RE: Electrical Substation- Life Threatening

The purpose of this communication is to second the petition invoked by the Newark Fire Fighter professionals (fire fighters, Captains, Deputy Chiefs, and Battalion Chiefs). As a general statement, it is important to place structures with highly potential safety hazards (such as fire) in an area that does not compromise the lives of residents and facilitates the efforts of the Fire Department and Rescue teams. In this case, the designs for a worse case scenario should have included two driveways for the impacted residents, which includes our member and his family, wife and 4 children (4,7,13,&15). In review of this life threatening situation, the following are the most grievous.

- Substation fire will block the two family's main exit and render it unusable to these families and rescue teams. The residents should be able to self evacuate their families like all the other families around it with out outside intervention.
- Rescue efforts will potentially compromise the lives of the emergency response teams since these homes are surrounded by woods and the whole area can be engulfed by fire from a brush fire created by the radiant heat and environmental conditions (winds).
- As per the Tewksbury First Aid and Rescue Squad, a walking path is unacceptable. The residents should have immediate vehicular medical assistance in the case of a life threatening medical condition (heart attack, respiratory distress, etc).
- The assembly point for these families is on a main County road (2 lanes) with no shoulder and staging emergency vehicles on a County lane would compromise response times for the local Fire Fighters and Medical Emergency response teams.
- The configuration of this substation does not conform to IEEE guidelines for fighting substation fires.

I trust that the governing bodies allowing this proposal will reconsider and eliminate this life threatening proposal and place it in an alternative location that is safe and facilitates the rescue efforts of the response teams and does not compromise the lives of residents or response teams. The alternative acceptable solution would be to provide these residents with a proper means of egress (emergency road, not path, for self evacuation or immediate access of medical response vehicles). This can be changed- this is not mother nature imposing this threat but human decisions. I trust that the decision makers in this case will force these power companies to always do the right thing. These children and senior citizens are not sacrificial lambs for a supposed greater good- electrical power.

Regards,



Charles H. West

President, Newark Firefighters Union

To: Governor Jon Corzine

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**CC: Jeanne Fox, BPU President
Mark Mauriello, DEP Commissioner
Tewksbury Township Committee
Fairmount Fire Department
Tewksbury First Aid and Rescue Squad**

From: NEWARK FIRE FIGHTERS

RE: Proposed Electrical Substation Indisputably Life Threatening

Attached is a petition from Newark Fire Fighters, which include signatures from: **Fire Fighters, Captains, Deputy Chiefs, Battalion Chiefs and the Vice President of the Newark Fire Fighter's Union.** This petition is voicing their concern about an installation of an electrical substation that will be life threatening to a Fire Fighter and his family (wife and 4 children) and two senior citizens with serious health issues located in the Township of Tewksbury. The intention of this petition is to have the Board of Public Utility eliminate this life threatening proposal and force JCP&L to find a safer location for the substation or provide these flag lot residents with an alternate safety road to enable self evacuation as their local volunteer fire chief has recommended.

In summary, the petition has been invoked due to the following facts:

- A potential fire at the substation, due to the proximity (65 ft) of the transformer to their main driveway and the overhead power lines (in existence) over the driveway, will block the two family's main exit and render it unusable to these families and rescue teams.
- JCP&L has offered them an emergency path through the woods over a septic mound to a busy County Road (517) with no shoulder that will not be maintained – a total walking distance of over 400ft. To compound the situation, this assembly location on the county road will compromise the access of emergency response teams to the scene.
- Board of Public Utility has ignored the Local Fire Chief's request for an emergency road for self evacuation.
- Board of Public Utility has ignored a letter from the First Aid and Rescue Squad who deemed this proposed emergency walking path unacceptable because they will not be able to provide immediate medical assistance or extraction in case of a life threatening health condition. In addition, this will also compromise the lives of the Rescue Squad team.
- Board of Public Utilities overturned a unanimous vote from the township Land Use Board because of these serious safety hazards.
- This situation also does not comply with the IEEE guidelines for fighting substation fires.
- This situation not only compromises the lives of the flag lot residents but the emergency response teams.

In addition to this preliminary petition, other petitions will be coming from other town fire fighters and a letter directly from the Newark Fire Fighter's Union signed by its President. We trust that you find this situation unacceptable and ensure that justice prevails and you safe guard the citizens of New Jersey no matter who they are.

To: Board of Public Utilities and Jersey Central Power & Light

Re: Star Ledger Article: Tewksbury fights planned electrical Substation

The intention of this petition is to voice our concern as Newark Fire Fighters and fellow colleagues of the fire fighter involved in this situation and point out serious safety issues that need to be considered and properly addressed.

There was a mention of an emergency path which will be provided for these flag lot residents that will lead to a busy main county road; this path should be a driveway as the local Fire Chief of a volunteer fire department recommended. In addition, the local First Aid and Rescue Squad also stated that a path through the woods is unacceptable because they need to have emergency vehicular access to the families in case of a medical emergency. To us, as firefighters, this is unacceptable because now you are not only compromising their lives but the lives of the rescue teams.

The following facts are valid and serious concerns that should eliminate this unreasonable proposal or prompt the State of NJ to force the power company to provide these residents with the proper egress (each resident an alternate driveway).

- Fires are unpredictable disasters that go out of control in seconds and take the lives of many. Transformers from substations experience fires and since it is in an open area exposed to a number of environmental conditions (winds) it can lead to a potential disaster.
- In case of a fire, the main driveway and main exit route will be compromised from the radiant heat, arcing from the wires and heavy toxic smoke. A path is unacceptable as an alternate egress route. They should be able to self evacuate like all the other residents around it. We have never seen a configuration like this. In Newark, the families around substations are able to have direct access to a road without outside intervention.
- If there is a medical emergency with one of the children or senior citizens how is the Medical response team going to access them in a timely manner when their no vehicular access.
- If the power company does not de-energize the power quick enough (taking about minutes in the right conditions such as wind direction, radiant heat and arcing generated by the wires) the brush fire will compromise the homes and lives of these residents in minutes. We know through experience that power companies have a delayed response depending on weather conditions. If the residents are sleeping, they will not know what hit them. If it happens during the night and our fellow fire fighter is protecting the community he works for - what is his wife and 4 children to do? What are two elderly people going to do?

- Even if a substation fire is a remote possibility, the design of this facility and egress routes should be based on worse case scenario and a path through woods leading to a county line is unacceptable due to the potential brush fire. More seriously if there is a medical condition, how will their families have immediate medical assistance?
- This whole situation does not follow the IEEE guidelines for fighting a substation fire. Why are guidelines published if our government officials are so willing to disregard them?

We fight fires everyday and this is not right. The fire fighter involved in this predicament is willing to lay down his life to save the lives of the people of NJ including your families however Jersey Central Power & Light is so easily willing to compromise the lives of his children. We trust that our governmental officials will do the right thing and reconsider this decision.

NEWARK FIRE FIGHTERS

F/F *[Signature]*
 F/F *[Signature]*
 F/F *[Signature]*
 Capt John V. Harahan
 F/F *[Signature]*
 F/F Juan Rodriguez
 F/F Sam Piacenza
 F/F *[Signature]*
 Capt. *[Signature]*
 F/F Rob DeProsera
 Capt. *[Signature]*
 F/F *[Signature]*

Capt. *[Signature]*
 Capt. J. *[Signature]*
 F/F Donald L. *[Signature]*
 B.C. Michael P. Witto
 F/F *[Signature]*
 F/F *[Signature]*
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 F/F B. *[Signature]*
 Capt. DAMN J. EMERICK
 B.C. *[Signature]*
 F/F *[Signature]*
[Signature]
 B.C. *[Signature]*

A/C M. K. R. S. S.

F/F John Paulsen

F/F J. Paul

F/F Valentin

F/F M. K.

CAPT John K. S.

A/C Paul S. S.

F/F A. S. S.

Capt E. D. P. S.

F/F A. D. S.

F/F Donal M. S.

F/F Anthony V. S.

Captain Wayne S.

F/F William E. S.

A. S.

F/F J. S.

F/F V. Caprigione

F/F J. S.

F/F J. S.

F/F J. S.

F/F J. S.

~~F/F J. S.~~

F/F Caprigione

F/F J. S.

F/F William S.

CAPT Michael S.

F/F J. S.

F/F Anthony S.

CAPT A. S.

Capt. M. Fitzpatrick

F/F J. S.

F/F J. S.

F/F J. S.

F/F J. S.

F/F J. S.

F/F J. S.

F/F J. S.

Capt. Matthew A. S.

Capt. J. S.

F/F Kevin S.

F/F PAUL ANDRADE

F/F Wayne S.

F/F Angel S.

F/F H. S.

F/R Rafael Alvarez

F/F Joe Gimenez

F/F Tom Scloni

F/F Julius Lopez

F/F George A. White

Capt. Dean Catter

F/F B. Brizzone

F/F Paul Lisk

VP LUTHER ROBERSON
NEWARK FIREFIGHTERS UNION

CAPT. Sal Fuchetta

F/F Fred Pavan

Capt. Manny Groggley

F/F Jack Pinto

F/F John Ferra

Capt. Danny Farrell

Abbreviations:

Capt = Captain

F/F = Fire Fighters

BC = Battalion Chief

DC = Deputy Chief

VP = Vice President of Nwk F/F Union

HIGHLANDS REGIONAL



MASTER PLAN
2008

Highlands Council Meeting

June 24, 2010



Executive Director's Report

- Update on Highlands Plan Conformance
- Work Session
- Highlands Project Review Update
- TDR Program Update
- Delegated Actions

Plan Conformance Update

Plan Conformance Update

Plan Conformance Petitions: To date, 40 (of 55 submitted with Resolution/Ordinance) Petitions for Plan Conformance have been deemed Administratively Complete and posted to the Highlands Council website.

- Wharton Borough's Petition was received on June 14, 2010 making it the 55th municipality to petition.
- Council staff has completed review of 13 full Petitions, thus far, and prepared Draft Consistency Review and Recommendations Reports ("Draft Consistency Reports") for each. Nine of these are now under internal review, while four have been completed.
- Draft Consistency Reports were sent to Byram Township, Chester Township, Lebanon Borough and Mahwah Township. For Byram Township, specific conditions related to the proposed Highlands Village Center are included.

Plan Conformance Update

Plan Conformance Grant Program: A total of \$238,217.25 has been paid out since the May 20, 2010 meeting to 9 participating municipalities. To date, a total of 53 municipalities have sought at least partial reimbursement for their Plan Conformance Grants totaling over \$1,557,000.

Initial Assessment Grant Program: There are 51 Highlands municipalities that have prepared an Initial Assessment Report. A total of 72 municipalities and 4 counties have signed up for the Initial Assessment Grant for a total of \$1,134,767 committed dollars.

Plan Conformance Update

Plan Conformance Grant Program: The following are the average payments made to towns with the base amount. On average, the payments to date are within the estimated base amount:

	<u>Base Amount</u>	<u>Average</u>	<u>Number of Towns</u>
Module 1	\$15,000	\$13,224	53
Module 2	\$10,000	\$ 5,977	45
Module 3	\$7,500	\$ 7,472	22
Module 4	\$2,000	\$ 3,152	33
Module 5	\$2,500	\$ 5,032	27
Module 6	\$5,000	\$ 2,954	23
Module 7	<u>\$8,000</u>	<u>\$ 5,758</u>	20
Total	\$50,000	\$43,569	

Plan Conformance Update

Byram Plan Conformance Grant Extension: Byram worked extensively with the Council as a pilot project for the development of a Highlands Center and held numerous extra public meetings. As a result, their expenses follow:

Module 1 – \$ 19,365

Module 2 – \$ 5,882

Module 3 – \$ 11,781

Module 4 – \$ 1,550

Module 5 – \$14,924

Module 6 – \$ 9,401

Module 7 – \$ 9,992

Total \$ 72,895

Reflecting recent work on a Highlands Center and related issues, they submitted additional invoices of \$29,375 (Module 3: \$15,088, Module 5: \$11,823, Module 7: \$2,464) and this will use the remainder of the grant award of \$100,000.

Additional work is necessary to respond to the Draft Consistency Report, to revise and finalize modules, and to adopt Modules 4 through 6. Accordingly, a grant award modification of \$25,000 is recommended.

Work Session

Highlands Plan Conformance Process

The work session on the Highlands Plan Conformance process will focus on the issuance of a **Draft Consistency Review and Recommendations Report** by Council staff.

The Highlands Act requires that municipalities “submit to the council such revisions of the municipal master plan and development regulations ... as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan. After receiving and reviewing the revisions, the council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate.”

To expedite the Plan Conformance process, model documents were prepared for Highlands municipalities. These models are being revised to reflect specific municipal issues.

Model Documents

- Environmental Resource Inventory – with maps and data tables
- Highlands Element for Municipal Master Plans – with maps
 - Preservation and Planning Areas
 - Preservation Area Only
 - Planning Area Only
- Highlands Land Use Ordinance – with maps
 - Also in 3 versions, as with Highlands Element

Petition Review Process

- Process after a Petition for Plan Conformance is deemed complete:
 - ❖ Petition documents posted on Highlands Council website
 - ❖ Draft Consistency Review and Recommendations Report
 - ❖ Local Review Period to address issues in the Report
 - ❖ Public Notice, Final Report, and Council consideration

- Public can track Plan Conformance Process through the Plan Conformance Petition Tracking Sheet to follow:
 - ❖ Date a Petition is received by the Highlands Council
 - ❖ Administrative Completeness
 - ❖ Consistency Review and Recommendation Reports
 - ❖ Municipal/County Review Period
 - ❖ Public notice and public comment periods
 - ❖ Highlands Council meetings to review Petitions

Highlands Plan Conformance Process

Byram, Chester Township, Lebanon Borough and Mahwah have been provided, and upcoming municipalities will be provided, a CD-ROM which includes the following specific items, including a staff review and mark-up of modules 3 through 7:

1. Transmittal Letter
2. Plan Conformance Grant Status Report
3. Draft Consistency Review and Recommendations Report
4. Module 3 (Fair Share Plan/Housing Element)
5. Module 4 (Environmental Resource Inventory or ERI)
6. Module 5 (Highlands Element of the Municipal Master Plan)
7. Module 6 (Highlands Land Use Ordinance)
8. Module 7 (Petition Support Materials)

Highlands Plan Conformance Process

Draft Consistency Report

This Report summarizes the status of Plan Conformance and any issues identified in the review of work products for Modules 3 through 7, along with remaining items that need to be addressed prior to Highlands Council approval of Plan Conformance for the municipality. While Modules 4, 5 and 6 are based on models prepared by the Highlands Council, these models are refined at the local level to address specific issues for each municipality.

Plan Conformance Grant Status Report

This summary has all reimbursements to date under the 2009 Plan Conformance Grant. The summary indicates the dollar amount remaining, based on all invoices submitted, and references the additional grant funding that will accompany the Highlands Council formal approval of the Petition for Plan Conformance.

Highlands Plan Conformance Process

Module 3 (Fair Share Plan/Housing Element)

Review forms completed by staff responding to the draft Housing Element and Fair Share Plan. The purpose for these reviews was to identify any potential RMP consistency issues prior to filing of a completed Housing Element and Fair Share Plan with COAH or the Law Division of Superior Court. Discussion regarding the final June 8, 2010 submittal is included in the Draft Report as appropriate.

Module 4 (Environmental Resource Inventory or ERI)

Municipalities have submitted a mark-up of the Highlands Council model ERI and Highlands Council staff responses are provided in the document as appropriate.

Highlands Plan Conformance Process

Module 5 (Highlands Element of the Master Plan)

Municipalities have submitted a mark-up of the Highlands Council model Highlands Element and the Council staff have provided responses in the document.

The Council staff has modified the model Highlands Element since it was first issued to municipalities, to address a number of valuable recommendations from municipal professionals that were received after release of the 2009 version. The primary modifications include:

- Land Use Plan – Simplified Septic Density Provisions
- Housing Plan - Added goals and objectives of RMP
- Historic Preservation Plan - Clarified that implementation of an Historic Preservation Ordinance is optional

Highlands Plan Conformance Process

Module 6 (Highlands Land Use Ordinance)

Municipalities have submitted a mark-up of the model Highlands Land Use Ordinance and Council staff provided responses in the document. In addition, parcel-based ordinance maps are being prepared by Council staff for each Highlands municipality.

The Council staff has modified the model Highlands Land Use Ordinance to address recent statutory changes and a number of valuable recommendations from municipal professionals that were received after release of the 2009 version. The primary modifications include:

- Revisions to the Highlands Act regarding impervious cover for solar installations
- Clarified language on exclusions and exemptions, specifically including provisions for Planning Area delegation
- Simplified septic system density ordinance

Highlands Plan Conformance Process

Module 7 (Petition Support Materials)

Municipalities have submitted a mark-up of the model Municipal Self-Assessment Report and the Highlands Implementation Plan and Schedule.

The Highlands Implementation Plan and Schedule is a critical component of the Council staff review. It includes estimated funds in support of ongoing Plan Conformance grants and estimates of how long the municipal public involvement and adoption process will require for each component. The final version, which will be adopted as a part of the Highlands Council resolution on Plan Conformance, will set the agenda for the following grant cycle and all anticipated Plan Conformance activities.

Highlands Plan Conformance Process

Municipal Response Period and Next Steps

Municipalities have been requested to provide responses to the Draft Report and work products within 45 calendar days or more, depending on complexity. Municipal comments are encouraged on the Draft Report and all Module 3 through 7 work products.

Upon completion of this process, the Highlands Council will release for public comment (via the Council's website) a Final Draft Consistency Review and Recommendations Report, along with clean copies of all Module 1 through 7 work products.

Upon conclusion of the public comment period, a Final Consistency Review and Recommendations Report will be prepared for formal consideration by the Highlands Council.

Highlands Plan Conformance Process

Highlands Council Action

Formal consideration by the Highlands Council on Plan Conformance Petitions is expected to begin in September. Depending on complexities of the issues, it is anticipated that two to three municipal Plan Conformance resolutions could be heard each Council meeting.

The major issues anticipated include:

- Schedule/Priority/Funding for next steps (e.g., Module 4 through 6 adoption, Water Use and Conservation Management Plans, Stream Corridor Plans)
- Highlands Center designations
- Map Adjustments
- Highlands Redevelopment Areas
- TDR Receiving Zones
- Substantive deviations from model documents, such as alternative methods for meeting RMP policies and objectives
- Delegation of authority

TDR Program Update

TDR Program Update

HDC Bank Offers: On June 9, 2010, the HDC Bank extended offer letters to five properties owners that qualified for hardship consideration during the Bank's first hardship round.

- Four of the property owners qualified on the basis that they have extenuating financial circumstances; the fifth property owner qualified on the basis that it just missed qualifying for Exemption #3 under the Highlands Act.
- If all 5 accept, the Bank would acquire 107.75 HDCs valued at \$1,724,000; a total of 220.89 acres will be placed under deeds of easement.
- To date, 2 property owners have accepted the offers.

TDR Program Update

Second Round of Hardship Applications: Also on June 9, 2010, the HDC Bank authorized a second hardship round.

- HDC Allocation Applications will have to be submitted to the Highlands Council by July 15, 2010, for consideration, while HDC Certificate Applications will have to be filed with the HDC Bank by August 12, 2010.
- The HDC Bank will consider those applications that qualify for hardship at its next meeting on September 2, 2010.

TDR Program Update

Update on HDC Allocations: The Highlands Council has received three additional HDC Allocations Applications, for a total of 19:

- To date, the Highlands Council has allocated 312 HDCs to 10 properties totaling 499.59 acres.
- The total value of allocated HDCs is \$4,992,000 based upon the \$16,000 initial HDC price; average per acre price for the eligible parcels is \$9,992.19 .
- Allocations represent total of 127 pre-Highlands Act residential development opportunities reduced and 63,117 square feet of pre-Act non-residential development.
- Three applicants requested HDC Allocation Reconsideration.
- Of the remaining nine applications, four are ineligible for consideration; five continue to be under consideration pending additional information.

TDR Program Update

HDC Certificate Applications:

- To date, the HDC Bank has received 7 HDC Certificate Applications including the 5 applicants that qualified for hardship.
- The remaining 2 applications are for properties that are being considered for HDC allocation and hardship under the second round, but further documentation had to be provided by the applicants.

Delegated Actions

Delegated Actions

On November 12, 2009, the Highlands Council specifically delegated certain actions to the Executive Director. This delegation was approved in Resolution 2009-57. The Resolution specifies that the Highlands Council shall reassess this matter on or before July 1, 2010 and annually thereafter.

In general, the Highlands Council retained authority for the substantive determinations regarding municipal and county Plan Conformance. The delegated authority generally addressed more ministerial determinations (such as exemptions) and consistency determinations where other State agencies are making final determinations.

Delegated Actions

The Resolution delegated five different categories to the Executive Director:

- 1) Plan Conformance recommendations and determinations on RMP Updates to verify updated, relevant factual information
- 2) HDC Allocation Determinations and any related documents and deeds of easement
- 3) Federal, State and regional agency coordination, review and issue determinations on all requests for consultation, coordination, recommendation or consistency determinations
- 4) Highlands Act exemption determinations
- 5) Review and issue comments or determinations on the following matters, unless Council review is required: adoption of any master plan, development regulation, or other regulation by a local government unit not in Plan Conformance; development applications submitted to and approved by local government units; call-up of local government unit approvals, and capital and other projects of State entities and local government units.

Delegated Actions

Summary of actions taken since November 2009:

Plan Conformance recommendations and determinations on Petitions and RMP Updates to verify updated, relevant factual information

- Petition Completeness Determinations: 40 deemed complete; 16 currently deemed incomplete
- Draft Consistency Review and Recommendations Reports: Four Draft Reports issued to Byram, Chester Twp, Lebanon Borough and Mahwah
- RMP Updates: 146 reviews for 18 municipalities. Six formal RMP Update reports for municipalities to date.

See the Municipal and County Plan Conformance Petition Tracking Sheet at:

http://www.highlands.state.nj.us/njhighlands/planconformance/pc_tracking_sheet.pdf

Municipality	RMP Update	Not RMP Update	More Info Required	Total
Bethlehem Twp		5	1	6
Clinton Town	1	5		6
Clinton Twp	2	8	2	12
Hampton Borough	2	6		8
Lebanon Borough	1	2		3
Randolph Twp	9	6	1	16
Washington Twp (Morris)	1	2	8	11
Wharton Borough	1	12	2	15
Passaic County	2			2
Far Hills Borough		2		2
Vernon Twp	2	6	3	11
Alpha Borough	3	8		11
Lopatcong Twp	2	1		
Hackettstown	14	4		18
Phillipsburg	1	3		4
Pohatcong		4		4
White Twp	1	9	4	14
Total	42	83	21	146

Delegated Actions

Other actions taken since November 2009:

HDC Determinations

HDC Allocation Determinations: Eleven (11) HDC Allocation Determinations, three requested HDC Allocation Reconsideration
Deeds of Easement: No (0) recorded Deeds of Easement

Highlands Project Review

Consistency Determinations: Four (4) Consistency Determinations
Highlands Act Exemption Determinations: Two (2) Exemption Determinations

HIGHLANDS REGIONAL



MASTER PLAN
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Highlands Council Meeting

June 24, 2010

