



**CHRIS CHRISTIE**  
*Governor*

**KIM GUADAGNO**  
*Lt. Governor*

**State of New Jersey**  
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**JACK J. SCHRIER**  
*Acting Chairman*

**EILEEN SWAN**  
*Executive Director*

## **MEETING AGENDA**

***Thursday, February 17, 2011 at 1:00 pm***

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES – January 20, 2011
6. ACTING-CHAIRMAN'S REPORT (and Council Member Reports)
7. EXECUTIVE DIRECTOR'S REPORT
8. PUBLIC HEARING AND CONSIDERATION OF RESOLUTION –  
Petition for Plan Conformance submitted by West Milford Township, Passaic  
County (voting matter with public comment)
9. PUBLIC HEARING AND CONSIDERATION OF RESOLUTION –  
Petition for Plan Conformance submitted by Tewksbury Township, Hunterdon  
County (voting matter with public comment)
10. PUBLIC HEARING AND CONSIDERATION OF RESOLUTION –  
Petition for Plan Conformance submitted by Rockaway Township, Morris  
County (voting matter with public comment)
11. 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*).
12. EXECUTIVE SESSION (if deemed necessary)
13. ADJOURN

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MINUTES OF THE MEETING OF FEBRUARY 17, 2011

**PRESENT**

JACK SCHRIER ) ACTING CHAIRMAN

KURT ALSTEDDE ) COUNCIL MEMBERS

BILL COGGER )

MICHAEL FRANCIS )

ROBERT HOLTAWAY )

JANICE KOVACH )

MIMI LETTS )

CARL RICHKO )

JAMES VISIOLI )

**ABSENT**

TRACY CARLUCCIO )

GLEN VETRANO )

**CALL TO ORDER**

The Acting Chairman of the Council, Jack Schrier, called the 102<sup>ND</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 1:06pm.

**ROLL CALL**

Roll call was taken. Mr. Vetrano and Ms. Carluccio 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 JANUARY 20, 2010**

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

**ACTING CHAIRMAN'S REPORT**

Acting Chairman Schrier reported that Council is down to nine members for this meeting. He reported that there are no Highlands Council nominations that are being acted on this week. Acting Chairman Schrier stated that it is becoming critically important that current Council Members are present since we are in the implementation phase of the RMP. Acting Chairman Schrier is very pleased by Council's attendance especially during this time to bring municipalities into Plan Conformance.



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**EXECUTIVE DIRECTOR'S REPORT**

**Plan Conformance Update**

Ms. Swan gave a brief summary update to the Council on Plan Conformance Petition reviews. To date 64 Petitions (from 59 Municipalities and 5 Counties) have been submitted to the Highlands Council (51 have been deemed administratively complete and posted to the Highlands Council website - including 2 Counties). Of these, fourteen Petitions have been approved (Townships – Bethlehem, Byram, Chester, Denville, Green, Mahwah & Mount Olive; Boroughs – Califon, Glen Gardner, Hampton, High Bridge & Lebanon; Towns – Clinton; and Passaic County). On today's meeting agenda three municipalities will be considered for Plan Conformance (West Milford, Tewksbury Township and Rockaway Township).

There are seven municipal response periods underway for municipalities (Townships – Franklin, Holland, Parsippany-Troy Hills, and Washington (Morris); Boroughs – Kinnelon and Bloomingdale. Thirteen additional Draft Consistency Reports are prepared and under internal review; another eleven are in development by Staff. Ms. Swan showed three different maps which showed the progress of Highlands Council Plan Conformance status of Petitions.

**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.

<u>Towns</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,728	71
Module 2	\$10,000	\$ 6,720	68
Module 3	\$ 7,500	\$13,816	53
Module 4	\$ 2,000	\$ 3,214	58
Module 5	\$ 2,500	\$ 6,118	51
Module 6	\$ 5,000	\$ 4,381	48
Module 7	<u>\$ 8,000</u>	<u>\$ 6,870</u>	45
<b>Total</b>	<b>\$50,000</b>	<b>\$54,847</b>	

**TDR Program Update**

Ms. Swan gave an update on the TDR Program. Third Round of HDC Acquisition Consideration to be held during HDC Bank meeting on April 7, 2011 includes two new categories under consideration:

- Parcels of Land that received Exemption #3, but that exemption has since expired; and
- Special Environmental Zone Lands and High Value Agricultural Priority Lands, where property has been offered for preservation purposes since August 10, 2004, but property did not qualify for a preservation program administered by a public entity.

Applications for an HDC Allocation under this Third Round will be accepted through February 24, 2011. To encourage participation, over 250 letters were sent to property owners with lands identified in either the Special Environmental Zone or High Value Agricultural Priority Area. To date, we have received 11 applications and have responded to over 30 calls from property owners in response to letters.

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Ms. Swan then presented the status of Second Round of HDC Acquisition Consideration. Ms. Swan reported that four property owners received offers from the HDC Bank to acquire the HDCs allocated to their properties; to date, 3 of the offers have been accepted and the fourth is pending and speaking with Green Acres. In total, HDC Bank has offered to acquire 54.5 HDCs valued at \$872,000 through this round. If all offers are accepted and close, another 83 acres in the Preservation Area will be permanently protected.

**Public Hearing and Consideration of Resolution – Petition for Plan Conformance by West Milford Township, Passaic County**

Acting Chairman Schrier asked for an overview of West Milford's Petition for Plan Conformance. Ms. Swan acknowledged that West Milford Township's Planning Board Chairman Andrew Gargano is present today on behalf of Mayor Bieri. Ms. Swan advised Council that Mayor Bieri has worked extremely closely with the Highlands Council and is a great voice for her municipality and has talked often for the need for assistance particularly for municipal projects in those municipalities which are nearly all or entirely in the Preservation Area. Mayor Bieri has been a champion for that cause and the Highlands Council worked with West Milford on a redevelopment area designation for an expanded municipal library. Mayor Bieri would have been with us today but unfortunately her daughter has sustained serious injuries in a car accident and the Mayor has not left her bedside since the accident. Ms. Swan noted that Acting Chairman Schrier suggested before the meeting that though we will have the customary celebratory photograph with Mr. Gargano we would be delighted to have Mayor Bieri back at a later date for a commemorative photograph.

Ms. Swan stated that Mr. Borden would first address a legal issue before the Plan Conformance overview. Mr. Borden informed the Council that a legal analysis was done with respect to Council member Carl Richko's participation in the meeting as it pertains to West Milford. As Council is aware, Mr. Richko was the Mayor of West Milford some 16 years ago so the analysis was done to see if there was a conflict of interest. The State Ethics Commission provided the Council with an analysis that differentiated between the Council's public members and elected official members. Mr. Richko was appointed as a public member for West Milford and based upon his position Mr. Richko is eligible to participate in the Council's action on this Petition.

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

- Established: 1834
- Population 27,746
- Land Area: 51,848 acres / 81 sq. mi.
- Preserved Lands: 33,378 acres
- Wetlands: 5,353 acres
- Total Forest: 40,390 acres

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- Farmland: 347 acres

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

- Preservation Area Lands: 51,846 acres – 100%
- Protection Zone – 46,392 acres – 89.5% (Roads 3%)
- Existing Community Zone – 3,889 acres – 7.5%
- Conservation Zone – 0 acres – 0%
- Highlands Open Water Protection – 30,543 acres – 59%
- Forest Resource Area – 50,860 acres – 98%
- Conservation Priority Areas – 12,181 acres – 23%
- Special Environmental Zone – 2,398 acres – 5%

**West Milford Township  
Background Statistics – Land Use**

<b>NJDEP Land Use/Land Cover</b>	<b>Pres</b>	<b>Percent</b>
Residential (Single & Multi Family)	5,202	10.0%
Commercial (Retail)	405	0.8%
Industrial & Transportation & Utilities	648	1.3%
Agriculture (Crops & Plantations)	531	1.0%
Recreational Lands (Public & Private)	270	0.5%
Extractive Mining	66	0.1%
Other Urban or Built-Up Land	324	0.6%
<b>Subtotal Developed Lands</b>	<b>7,446</b>	<b>14.4%</b>
Mixed Forest	34,852	67.2%
Shrub & Scrub	184	0.4%
Mixed Wetlands	5,351	10.3%
Barren Lands	139	0.3%
Water	3,874	7.5%
<b>Subtotal Natural Lands</b>	<b>44,400</b>	<b>85.6%</b>
<b>Total</b>	<b>51,846</b>	<b>100.0%</b>

Ms. Swan then showed a movie representing a ‘fly over’ of West Milford Township. The movie offered an opportunity to focus on the landscape of the Township. Ms. Swan also showed ordinance maps for West Milford Township and continued to provide an overview of the Petition of Plan Conformance and the administrative record for the Township as follows:

12/8/09	Petition for Plan Conformance Submitted
2/4/10	Petition Deemed Administratively Complete
2/9/10	Petition Posted to Highlands Council Website
12/23/10	Draft Consistency Report Sent to Municipality
1/20/11	Final Draft Report Posted to Highlands Council Website

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2/4/11	End of Public Comment Period (Start 1/20/11)
2/10/11	Final Report Posted to Highlands Council Website
2/17/11	Highlands Council Public Hearing

Ms. Swan noted that West Milford Township had completed the Module submittals required under Plan Conformance. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for West Milford 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 and a revised version was posted to the Highlands Council website on July 23, 2009. Staff RMP Consistency Finding is that West Milford Township Highlands Municipal Build-Out Report is consistent with the RMP. With respect to Module 3, the Council staff found that West Milford Township's Fair Share Plan and Housing Element was consistent with the RMP.

Ms. Swan then asked Mr. Borden to brief Council on the present judicial and legislative status of Module 3 requirements which are applicable for all municipalities being considered today. Mr. Borden reported that the Supreme Court of New Jersey has issued a stay of the Appellate Division's decision on COAH's Round 3 rules. In addition, Senate Bill #1 has been vetoed by the Governor, was withdrawn by the Legislature and it is anticipated that a revised bill amending the Fair Housing Act will be announced soon. Given this, it is recommended that the Highlands Council continue to consider municipalities for Plan Conformance conditioned on compliance with the eventual resolution on affordable housing litigation or legislation and all approved municipalities will be required to resubmit an amended Fair Share Plan and Housing Element to Council.

Ms. Swan then continued with her presentation and 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 West Milford 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 West Milford 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 West Milford 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 West Milford Township's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan then presented a summary of the public comments received and a summary of the draft responses prepared by Highlands Council staff for West Milford Township's Petition for Plan Conformance. The public comment period for West Milford Township's Petition for Plan Conformance opened on January 20, 2011 and closed February 4, 2011. Notice was given in area

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newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system.

Comments received from:

- Kevin Walsh, Esq., on behalf of the Fair Share Housing Council
- New Jersey Highlands Coalition

Comments submitted by Fair Share Housing Center:

**Summary of Comments:** The Fair Share Housing Center objects to reliance on the Highlands build-out numbers for calculating the township's fair share obligation of affordable housing.

- **Summary of Response:** These comments specifically relate to matters that are pending before the Appellate Division in litigation filed by Fair Share Housing Center. The Petition should be approved conditioned upon achieving and retaining compliance with the Fair Housing Act. In addition, the response clarifies that the Build-out Report is based upon the Highlands Act and RMP Requirements.

Comments submitted by Julia Somers, New Jersey Highlands Coalition:

**Comment:** It will take considerable resolve by the Township to meet its affordable housing obligations.

- **Response:** The Township's Housing Element and Fair Share Plan have been determined to be consistent with the RMP. The Council recognizes the constraints placed on the Township regarding affordable housing and will work with the Township to fulfill their obligations.

**Comment:** The Coalition supports the development of Water Use and Conservation Management Plans (WUCMP) and asks when they will begin and be completed.

- **Response:** The WUCMPs that will be established for municipal conformance will begin after completion of the Council's ongoing pilot program. This will enable the Council to utilize the benefits of those projects to be applied to new planning efforts.

**Comment:** The Coalition notes that West Milford continues to seek Center designation with the Office of State Planning. Because it is entirely Preservation Area, it is appropriate that the Township stop pursuing Center designation from that agency.

- **Response:** West Milford is an entirely Preservation Area municipality and thus must conform to the Regional Master Plan. Through Plan Conformance they may seek center designation but that center would still be subject to the Highlands Act, the Highlands DEP rules and the Highlands Regional Master Plan. Council staff will work with West Milford to address this.

Acting Chairman Schrier clarified that it would be a Highlands Center Designation Area. Ms. Swan concurred and said that West Milford is entirely in the Preservation Area so it would not be similar to Byram Township which was a Highlands Center Designation in the Planning Area. A Highlands Center in the Preservation Area would be subject to the Highlands Act restrictions and the DEP Highlands rules.

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

- Compliance with the 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 & Management Plan
  - Highlands Redevelopment Area Planning Program
  - Land Preservation & Stewardship Program
  - Right to Farm Ordinance
  - Stream Corridor Protection & Restoration Plan

Ms. Swan reminded Council that all obligations for the work continued on Plan Performance are always conditioned upon the availability of funding because the Highlands Act made it clear that municipalities would have that funding for the reasonable costs associated for Plan Conformance.

Ms. Swan then reported the previous Highland Protection Fund grants for West Milford Township. The Fair Share Planning Grant for the development of a Housing Element and Fair Share Plan and Initial Assessment Grant are complete, West Milford Township's Municipal Pilot Planning Project Grant to explore redevelopment opportunities and an eco-tourism plan is complete; and the Initial Assessment Grant report is complete. West Milford's Water Use and Conservation Management Plan pilot grant is ongoing.

Ms. Swan then reported the future Highlands Protection Fund grants for West Milford Township:

- Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:
  - Water Use and Conservation Management Plan for two additional subwatersheds, with the Highlands Council serving as the lead for this project.
  - Highlands Redevelopment Area Planning to initiate planning to examine potential for redevelopment areas consistent with the Regional Master Plan.

*Mr. Richko made a motion to approve the Resolution for West Milford Township. Ms. Kovach seconded it.*

Acting Chairman Schrier opened the public hearing on West Milford Township's Petition for public comment on the proposed Resolution.

**Public Comment**

**Andrew Gargano, Planning Board Chair for West Milford Township** – Mr. Gargano, who grew up on Long Island before meeting his wife and settling in West Milford Township in 1986, embraced the Highlands Act in 2004 because of the over development throughout the area. Mr. Gargano stated that West Milford is in a water deficit area and 90% of its residents are on well water using ground water within rock formations. Mr. Gargano further stated that it is essential to survival in the future to approve West Milford's Petition for Plan Conformance. The State of New Jersey took action to protect the future with the passage of the Act. West Milford gives millions of



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residents in New Jersey drinking water. He stated that Mayor Bieri truly wanted to be here today and he read a text message that he received from her and stating to Council how important it is for the West Milford community that they conform to the Highlands RMP. Mr. Gargano further stated that West Milford appreciates the grant money to help with this cause and thanks the Council and the State of New Jersey for thinking ahead. He complemented the Highlands Council staff.

**Helen Heinrich, New Jersey Farm Bureau** – Ms. Heinrich stated that this is an example that gives the Farm Bureau much concern for the most flexibility and leeway to agriculture, since West Milford is entirely in the Preservation Area and has no Conservation Zone. Ms. Heinrich further stated that putting the requirement for the Right-to-Farm Act will be very helpful and that will open up the discussion about what farmers need and can do. Ms. Heinrich hopes that the conservation priority lands will continue to be preserved and land owners compensated.

**Julia Somers, New Jersey Highlands Coalition** – Ms. Somers stated that after conversing with Mr. Richko it was determined that West Milford is the heart of the highlands! Ms. Somers commented that it is important that West Milford is moving forward with Plan Conformance. Ms. Somers further commented how it is ironic that a township that sends so much water to northern New Jersey has a serious water problem, so a Water Use and Conservation Management Plan will be important for West Milford and she wishes them good luck.

**David Shope, owns property in Lebanon Township** – Mr. Shope questioned how West Milford sends water to Newark amongst other places and has a water deficit based on a statute that New Jersey is in a drought; so if legislators say we are in a drought then it must be true. Mr. Shope questions the authority of Council to impose conditions on a town in the Preservation Area which is already restricted by NJDEP. Mr. Shope also submitted a 2006 newspaper article regarding a subdivision before Bernardsville planning board by Mikael Salovaara for purposes of addressing his mortality concerns while land owners elsewhere in the Highlands continue to twist in the wind.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey congratulates West Milford on conforming to the Regional Master Plan. It is a great place to take legislators to see the importance of the Highlands Act. Mr. Frey stated that she is glad to see this happen.

**Council Comments**

Mr. Richko commented that Mayor Bieri is disappointed for not being here today and expressed her thanks to the Council for their support. West Milford is in a water deficit area and any future development would have an effect on current homeowners. The Township supplies water to so much of the state. Mr. Richko is in favor of West Milford's Plan Conformance and hopes the council approves their Petition today.

Ms. Letts asked Mr. Richko what are the sources of the water that supply waters to West Milford's reservoirs. Mr. Richko responded that there are numerous streams and rivers within West Milford's Pequannock and Wanaque watersheds.

Ms Swan acknowledged Jim Hutzelmann, Water Resources Engineer and Highlands Staff Liaison for all of his work on West Milford Township.

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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 Planning Board Chair Andrew Gargano.

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

Ms. Swan acknowledged Committeeman Lou DiMare representing Tewksbury Township at today's hearing.

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

*Acting Chairman Schrier left the meeting at 1:56pm*

Ms. Swan presented background statistics and information for Tewksbury Township.

- Established: 1798
- Population: 6,076
- Land Area: 20,326 acres / 31.7 sq. mi.
- Preserved Lands: 3,645 acres
- Wetlands: 893 acres
- Total Forest: 9,409 acres
- Farmland: 5,968 acres

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

- Preservation Area Lands: 13,469 acres – 66%
- Planning Area Lands: 6,857 acres – 34%
- Conservation Zone – 12,060 acres – 59.4%
- Protection Zone – 7,442 acres – 36.6% (Roads 2.9%)
- Existing Community Zone – 228 acres – 1.1%
- Highlands Open Water Protection – 7,661 acres – 38%
- Forest Resource Area – 10,249 acres – 50%
- Agricultural Priority Areas – 7,494 acres – 37%
- Conservation Priority Areas – 2,379 acres – 12%



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**Tewksbury Township**  
**Background Statistics – Land Use**

<b>NJDEP Land Use/Land Cover (2007)</b>	<b>Plan</b>	<b>Pres</b>	<b>Percent</b>
Residential (Single & Multi Family)	857	3,032	19.1%
Commercial (Retail)	43	29	0.4%
Industrial & Transportation & Utilities	70	116	0.9%
Agriculture (Crops & Plantations)	2,659	3,271	29.2%
Recreational Lands (Public & Private)	30	52	0.4%
Extractive Mining	77	0	0.4%
Other Urban or Built-Up Land	85	196	1.4%
<b>Subtotal Developed Lands</b>	<b>3,820</b>	<b>6,696</b>	<b>51.7%</b>
Mixed Forest	1,897	5,784	37.8%
Shrub & Scrub	683	385	5.3%
Mixed Wetlands	369	515	4.3%
Barren Lands	20	14	0.2%
Water	69	75	0.7%
<b>Subtotal Natural Lands</b>	<b>3,037</b>	<b>6,773</b>	<b>48.3%</b>
<b>Total</b>	<b>6,857</b>	<b>13,469</b>	<b>100.0%</b>

Ms. Swan then showed a movie representing a ‘fly over’ of Tewksbury Township. The movie offered an opportunity to focus on the landscape of the township, in particular noting the difference between the Planning and Preservation Area lands. Ms. Swan showed ordinance maps of Tewksbury Township and continued to provide an overview of the Petition of Plan Conformance and the administrative record for the Township as follows:

*Acting Chairman Schrier returned to meeting at 2:01pm.*

12/8/09	Petition for Plan Conformance Submitted
3/31/10	Petition Deemed Administratively Complete
4/9/10	Petition Posted to Highlands Council Website
8/27/10	Draft Consistency Report Sent to Municipality
1/20/11	Final Draft Report Posted to Highlands Council Website
2/4/11	End of Public Comment Period (Start 1/20/11)
2/10/11	Final Report Posted to Highlands Council Website
2/17/11	Highlands Council Public Hearing

With respect to Module 1 and 2, Ms. Swan explained that the Highlands Municipal Build-Out Report for Tewksbury Township was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The Build-Out Report was updated since first issued to the municipality based upon information provided at a later date. The date of the Highlands Municipal Build-Out Report is August 2009. The Staff RMP Consistency Finding is that Tewksbury Township’s Highlands Municipal Build-Out Report is consistent with the RMP.

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With respect to Module 3, Ms. Swan specified that the Staff RMP Consistency Finding is that Tewksbury Township's Fair Share Plan and Housing Element is consistent with the RMP. Ms. Swan noted that Tewksbury Township has done a great job with meeting their affordable housing obligations. Ms. Swan then showed pictures of an historic building in Tewksbury which was remodeled for three affordable units in the Township. This was an example of affordable housing developed consistent with the character of Tewksbury.

With respect to the Environmental Resource Inventory, Module 4, the Staff RMP Consistency Finding is the Tewksbury Township's Environmental Resource Inventory is consistent with the RMP. With respect to the Master Plan Highlands, Module 5, the Staff RMP Consistency Finding is that the Tewksbury Township's Master Plan Highlands Element is consistent with the RMP. Tewksbury 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 Tewksbury 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 responses given by the Highlands staff for Tewksbury Township's Petition for Plan Conformance. The public comment period for Tewksbury's Petition for Plan Conformance opened January 20, 2011, and closed February 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:

- Kevin Walsh, Esq. on behalf of the Fair Share Housing Center
- Hank Klumpp, Property Owner
- Robin Love, President, Resident's Alliance for Neighborhood Preservation, Inc.
- George C. Cassa, Alliance for Historic Hamlets
- Basil Hone and Frances Spann, Citizens to Save Tewksbury
- Julia Somers, Executive Director on behalf of the New Jersey Highlands Coalition

Comments submitted by Fair Share Housing Center:

**Comment:** The Fair Share Housing Center objects to reliance on the Highlands build-out numbers for calculating the township's fair share obligation of affordable housing.

**Response:** These comments specifically relate to matters that are pending before the Appellate Division in litigation filed by Fair Share Housing Center. The Petition should be approved conditioned upon achieving and retaining compliance with the Fair Housing Act. In addition, the response clarifies that the Build-out Report is based upon the Highlands Act and RMP Requirements.

Comments submitted by Hank Klumpp:

**Comment:** Mr. Hank Klumpp submitted comments regarding inclusion of Tewksbury in the Highlands, the scientific basis for mapping, the establishment of the Preservation Area boundary, and land owner equity issues.

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**Response:** Tewksbury Township was first identified in the Highlands Region mapping as a part of the 2001 New Jersey State Development and Redevelopment Plan. The 2001 State Plan analyzed the significant resources of the Highlands and concluded that nearly 70 percent of the area is mapped as Environmentally Sensitive. Extensive federal studies conducted by the United States Forest Service in 1992 and 2002 led to the federal Highlands Conservation Act signed by President Bush in 2004. The delineation of the Preservation Area boundary was an action of the Legislature and the Council has no authority to modify the boundary. The establishment and boundary of the Preservation Area were supported in two decisions: *OFP, L.L.C. v. State and County of Warren v. State*.

With respect to landowner equity, the Highlands Act includes a provision for a “strong and significant commitment by the State to fund the acquisition of exceptional natural resource value lands.” The Highlands Council recently completed a report that found that since July 2008, 7,690 acres have been added as preserved lands. The Highlands Region presently has a total of 290,214 preserved acres. The report concluded that since 2008 SADC Farmland Preservation Program has paid an average of \$9,816 per acre for development rights in the Preservation Area and \$14,288 per acre in the Planning Area. Under the Green Acres Program in the Preservation Area, properties have averaged \$10,265 per acre, while in the Planning Area properties have averaged \$19,957 per acre. Finally, under the Highlands TDR Program, for those Preservation Area properties that have received an allocation of HDCs, the average per acre land value is \$10,135.

Comments submitted by Robin Love, President, Resident’s Alliance for Neighborhood Preservation, Inc.; George C. Cassa, Alliance for Historic Hamlet; Basil Hone and Frances Spann, Citizens to Save Tewksbury:

**Comment:** Letters of support were submitted for the Township’s Petition for plan conformance, particularly supporting the removal of the Route 78 Sewer Service Area from Tewksbury Township’s Wastewater Management Plan as being consistent with the Township’s Petition and the RMP.

**Response:** The Highlands Council acknowledges the support for the Township’s Petition for Plan Conformance and will continue to work with the Township to develop a Wastewater Management Plan consistent with the Goals, Policies and Objectives of the RMP.

Comments submitted by Julian Somers, New Jersey Highlands Coalition:

**Comment:** The Coalition supports Tewksbury Township’s Petition for plan conformance and supports the recommendation that jurisdiction over Critical Habitat areas of the Highlands Region will rest in large part with the Highlands Council and the NJDEP.

**Response:** The Highlands Council acknowledges the New Jersey Highlands Coalition’s support for the Township’s Petition for plan conformance and recommendation for jurisdiction for Critical Habitat areas.

**Comment:** The New Jersey Highlands Coalition notes that the Township has elected not to include a Historic, Cultural & Archaeological Resources Ordinance and supports the Township’s future adoption of the Ordinance

**Response:** Tewksbury has an existing Historic Preservation Commission and protective ordinances. They also have a Scenic Roads Commission. The Township can augment these protections through Plan Conformance. They did not make an actual determination that they would not include further protections consistent with their work in this area in the past.

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**Comment:** The New Jersey Highlands Coalition wanted to confirm that, in the Planning Area, the RMP prohibits the creation or extension of public water supply systems and wastewater collection and treatment systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-Zones until or unless authorized by the Highlands Council.

**Response:** In the Planning Area – Protection Zone, Conservation Zone and Environmentally Constrained Sub-Zones, new, expanded or extended public water systems, wastewater collection and treatment systems, and community on-site treatment facilities are permitted only where approved by the Highlands Council and included within a NJDEP-approved Wastewater Management Plan. However, it was pointed out that zone changes could occur through: RMP Updates, Map Adjustments, Center Designation and/or TDR designated Receiving Areas.

Ms. Swan then summarized the Staff Recommendation for Tewksbury 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
  - Green Building/Environmental Sustainability/Alternative Energy Plan
  - Right to Farm Ordinance
  - Agricultural Retention Plan
  - Stream Corridor Protection & Restoration Plan

Ms. Swan then reported the previous Highlands Protection Fund Grants for the Tewksbury Township. The Fair Share Planning Grant for the development of a Housing Element and Fair Share Plan and the Initial Assessment Grant are complete. The Transfer of Development Rights Feasibility Grant is ongoing.

Ms. Swan then reported the future Highlands Protection Fund Grants for Tewksbury Township:

- Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:
  - Water Use and Conservation Management Plan for an additional subwatershed, with the Highlands Council serving as the lead for this project.

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- Stream Corridor Restoration/Protection Plan to address existing stream restoration needs, potential stream impacts of future land uses, and mitigation options beyond those contained within the Highlands Land Use Ordinance.
- Habitat Conservation & Management Plan in recognition of the large areas of Critical Habitat in the Township, and the potential for both unavoidable disturbance and restoration opportunities.
- Agricultural Retention Plan – To plan for methods to improve the sustainability and profitability of farming in the Township, recognizing the large agricultural area.
- Green Building/Environmental Sustainability/ Alternative Energy Plan – To help the Township identify and plan for issues regarding on-site alternative energy facilities and green building options.

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

Acting Chairman Schrier opened the public hearing on Tewksbury Township's Petition for public comment on the proposed Resolution.

**Public Comment**

**Lou DiMare, Tewksbury Township Committeeman** – Mr. DiMare expressed his heartfelt thanks to the Highlands Council and the entire Highlands staff. Mr. DiMare stated that the process in Tewksbury Township has been very open and contentious at times. Mr. DiMare is very pleased it has gotten to this point and commended the presentation given by Ms. Swan as being very thorough.

**Hank Klumpp, owns 150 acres in Tewksbury Township** – Mr. Klumpp stated that he enjoyed Ms. Swan's comments. He then read a statement which he submitted for the record.

Acting Chairman Schrier commented that the Highlands Council has initiatives to address landowner equity and have supported this since 2004. Mr. Klumpp stated that he just wants to be compensated and feels the Highlands Council should stand up to the Legislature on behalf of the landowners.

**David Peifer, Association of New Jersey Environmental Commission** - Mr. Peifer stated that he is a resident of Tewksbury in the historic district. He stated that it is very important that Tewksbury successfully conforms. It is a town at serious risk because it has a major highway clipping its southern border. Mr. Peifer feels the Council is giving the Township much better tools to preserve the community and since Tewksbury is in a state of flux, this is a way to increase the understanding and to protect what the residents have.

*Ms. Kovach left the meeting at 2:29pm.*

**David Shope owns property in Lebanon Township** - Mr. Shope commented that since Tewksbury is conforming in the Preservation and Planning Area, the residents in Tewksbury are in for a rude awakening once all the ordinances are put in place. Mr. Shope urges Council to vote no for the Planning Area for Tewksbury.

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**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey stated that she has been a resident of Tewksbury Township for thirteen years, served on environmental committee for ten years and urges the Council to vote yes to this Petition. Ms. Frey mentioned that the people who care about the town who are here today and they played a very important role in maintaining the beauty of Tewksbury. She recognized Basil and Rilda Hone. New Jersey Conservation Foundation was one of the first groups to help preserve lands in the town and is now working on the Hill and Dale Farm. She would be glad to see the historic element finalized, enlarged and completed. Ms. Frey would give all her support to any application Mr. Klumpp chooses to offer for farmland preservation, development rights or fee. Ms. Frey stated that New Jersey Conservation Foundation supports bonding of the funding that was authorized by the general public more than a year ago to continue the work of preservation in the Highlands.

Acting Chairman Schrier noted that the Farmland Preservation Program protects and preserves the farm as a farm, yet the farm owner continues to retain ownership or sell the property as a farm.

**Julia Somers, New Jersey Highlands Coalition** – Ms. Somers wanted to make a comment on Mr. Klumpp's comment that all the real estate value has been taken away from him. Mr. Somers noted that Hill and Dale property is under contract for purchase for \$40,000/per acre in Preservation Area. Ms. Somers furthers states that it is Mr. Klumpp's choice and that there are options to pursue.

**Basil Hone – resides at 18 King Street in Oldwick** – Mr. Hone strongly supports Plan Conformance to the Regional Master Plan and he appreciates the vital importance to keep water resources as pristine as possible. Mr. Hone hopes Council will vote in favor of Petition and welcomes Council support for sewer service issues. Mr. Hone stated that he appreciates the effect the state has had in terms of funding and has been a hard road for the farmers. Mr. Hone hopes the TDR system gets up and running. Mr. Hone commented that the Highlands Council staff has been most helpful and he appreciates their efforts.

**Mr. Klumpp, owns 150 acres in Tewksbury Township** – Mr. Klumpp stated that before the Highlands Act the zoning was 3 acre lots. Mr. Klumpp urges the Council to vote no and that farmers are in the minority and do not have a big voice in the township.

**Council Comment**

Mr. Holtaway made note that several months ago he and Ms. Swan went to a township committee meeting regarding the JCP&L proposed substation which Council deemed inconsistent. Mr. Holtaway wanted to express his disappointment that BPU granted JCP&L the approval to move forward with the substation. Mr. Holtaway is in favor of Tewksbury's Petition for Plan Conformance in the Planning and Preservation Area.

Ms. Swan acknowledged that James Humphries, Regional Planner was the Highlands Staff liaison for Tewksbury Township and recognized his work on this petition.

*All members present voted on the Resolution by roll call. The Resolution was APPROVED 8-0.*

At this time commemorative photos were taken as the Acting Chairman Schrier presented a framed certificate regarding the approval of the Plan Conformance Petition to Committeeman Lou DiMare.



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*A brief recess was taken and the meeting was reconvened at 2:56pm.*

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

Ms. Swan acknowledged that there was a large contingent in attendance at the hearing representing Rockaway Township: Gregory Poff, Administrator; Kevin Kain, Planner; Phyllis Hantman, Land Use Administrator; Edward J. Buzak, Township Attorney; and Pat Matarazzo, Chairman of Rockaway Township Environmental Commission.

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

- Incorporated: 1844
- Population: 25,454
- Land Area: 29,371 acres/45.8 sq. mi.
- Preserved Lands: 11,513 acres
- Wetlands: 3,203 acres
- Total Forest: 20,288 acres
- Farmland: 145 acres

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

- Preservation Area Lands: 17,789 acres – 61%
- Planning Area Lands: 11,582 acres – 39%
- Protection Zone – 23,244 acres – 79.1% (Roads 3.3%)
- Existing Community Zone – 5,144 acres – 17.5%
- Conservation Zone – 0 acres – 0%
- Highlands Open Water Protection – 16,629 acres – 56%
- Forest Resource Area – 25,951 acres – 88%
- Conservation Priority Areas – 10,985 acres – 37%
- Special Environmental Zone – 1,769 acres – 6.0%

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**Rockaway Township  
Background Statistics – Land Use**

<b>NJDEP Land Use/Land Cover</b>	<b>Plan</b>	<b>Pres</b>	<b>Percent</b>
Residential (Single & Multi Family)	2,236	1,194	11.7%
Commercial (Retail)	361	52	1.4%
Industrial & Transportation & Utilities	340	243	2.0%
Agriculture (Crops & Plantations)	28	124	0.5%
Recreational Lands (Public & Private)	185	163	1.2%
Military	727	0	2.5%
Extractive Mining	55	340	1.3%
Other Urban or Built-Up Land	490	91	2.0%
<b>Subtotal Developed Lands</b>	<b>4,422</b>	<b>2,207</b>	<b>22.6%</b>
Mixed Forest	4,923	11,955	57.5%
Shrub & Scrub	100	123	0.8%
Mixed Wetlands	1,436	1,767	10.9%
Barren Lands	73	21	0.3%
Water	628	1,715	8.0%
<b>Subtotal Natural Lands</b>	<b>7,160</b>	<b>15,582</b>	<b>77.4%</b>
<b>Total</b>	<b>11,582</b>	<b>17,789</b>	<b>100.0%</b>

Ms. Swan then showed a movie representing a ‘fly over’ of Rockaway Township. The movie offered an opportunity to focus on the landscape of the Township including its major infrastructure and natural resources. Ms. Swan showed ordinance maps for Rockaway Township and continued to provide an overview of the Petition of Plan Conformance and the administrative record for the Town as follows:

12/8/09	Petition for Plan Conformance Submitted
1/22/10	Petition Deemed Administratively Complete
2/1/10	Petition Posted to Highlands Council Website
8/17/10	Draft Consistency Report Sent to Municipality
12/15/10	Final Draft Report Posted to Highlands Council Website
1/18/11	End of Public Comment Period (Start 12/15/10)
2/10/11	Final Report Posted to Highlands Council Website
2/17/11	Highlands Council Public Hearing

Ms. Swan noted that the Rockaway Township had completed the required Module Submittals. The Highlands Municipal Build-Out Report for Rockaway 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 and a revised version was posted to the Highlands Council website on August 11, 2009. The Staff RMP Consistency Finding is that Rockaway Township’s Highlands Municipal Build-Out Report is consistent with the RMP.

With respect to Module 3, the Staff RMP Consistency Finding is that Rockaway Township’s Fair Share Plan and Housing Element is consistent with the RMP. Ms. Swan noted that the public



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comments would include additional Module 3 issues. With respect to the Environmental Resource Inventory, Module 4, the Staff RMP Consistency Finding is the Rockaway 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 Rockaway Township's Master Plan Highlands Element is consistent with the RMP. With respect to Module 6, the Staff RMP Consistency Finding is that Rockaway Township's Highlands Area Land Use Ordinance is consistent with the RMP.

Lastly, 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 Rockaway Township's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan then presented a summary of the public comments received and a summary of the responses given by Highlands staff for Rockaway Township Petition for Plan Conformance. The public comment period for Rockaway Township's Petition for Plan Conformance opened December 15, 2010, and closed January 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:

- Guliet D. Hirsch, Esq., Archer & Greiner, representing Pondview Estates; John T. Chadwick, IV, P.P., as submitted by Guliet Hirsch, Esq., on behalf of Pondview Estates; and Steven Firkser, Esq., Greenbaum, Rowe, Smith & Davis, representing Morris Commons.

Ms. Swan noted that no representatives are present at the meeting regarding the following comments and that the matters regarding these comments would not be repeated as they are on record and posted on the Highlands website and are reflected in these minutes accordingly.

Comments from Guliet D. Hirsch, Esq., Archer & Greiner, representing Pondview Estates and regarding the Fair Share Plan.

**Comment 1:** "Please be advised that Pondview Estates has not agreed to Alternative B, or to any reduction in the approved development capacity."

**Response:** The comment is noted. The matter is part of on-going litigation involving Pondview and the Township. The Highlands Council has reviewed both Alternatives and has determined both Alternatives are consistent with the Highlands Regional Master Plan for the purposes of an approval of Plan Conformance.

**Comment 2:** "The only question with regard to the Pondview Estates site is the source of the water supply for the affordable housing development." ... "Since the Law Division of Superior Court is presently overseeing the evaluation to determine the extent of public water available for the Pondview Estates site, this Council need not take any action in this regard other than to acknowledge, as it has done at page 10 of the Final Draft Report, that water supply options other than onsite wells exist --- and do not raise RMP consistency issues."

**Response:** The Highlands Council acknowledges that alternatives to the provision of water service to the site are involved in ongoing litigation between Pondview and the Township. At present, a Major Modification to Rockaway Township's Water Allocation Permit has been submitted to the NJDEP. The Permit application was deemed administratively incomplete, requiring several

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items including a consistency determination by the Highlands Council. As to the consistency of any other methods to supply water to the site, the Highlands Council cannot determine consistency until those other methods are presented to the Council. The Highlands Council has an obligation to take action on this matter in accordance with the requirements of Highlands Act, at N.J.S.A. 13:20-14 and 15, which require the Highlands Council to formally review Rockaway's revised master plan (and related land use documents), including the Housing Element and Fair Share Plan, and "approve, reject or approve with conditions" the municipal Petition for Plan Conformance. As Rockaway Township's Fair Share Plan and Housing Element included the Pondview Estates site, the Highlands Council examined whether this aspect of the Fair Share Plan and Housing Element was consistent with the Highlands Regional Master Plan.

Comments submitted by John T. Chadwick, IV, P.P., as submitted by Guliet Hirsch, Esq., on behalf of Pondview Estates. These comments are specific to the site reviews conducted for three sites included in the Township's Fair Share Plan: Villages at Rockaway, Commons Way 3.06 and Commons Way 3.07.

**Comment 1:** "The consistency reports for these three sites strongly conflict with the conclusion in Final Draft Report dated November 19, 2010, notwithstanding qualifying statements that the sites "do not appear to have significant consistency issues with the RMP." The conclusions are in direct conflict with the findings of these three sites contained within the RMP Consistency Report for each site and the Final Draft Report dated November 19, 2010 – Appendix B."

**Response:** As noted in the Highlands Council Final Draft Consistency Review Report: "The initial Highlands Council review indicated potential RMP consistency issues with a number of the proposed sites. After meeting with the municipality, it was determined that due to the status of approvals and existing infrastructure, the RMP consistency issues were not significant enough to prevent the developments, as proposed. At this time the projects as proposed shall be considered to be viable components of the Township's Fair Share Plan. If at any time during the Court's review of the Fair Share Plan or during any approval process for the individual sites it is determined that any of these projects are no longer viable, then the Township will be required to provide a revised Fair Share Plan for consideration."

Comments from Steven Firkser, Esq., Greenbaum, Rowe, Smith & Davis. Representing Morris Commons. Comments Regarding the Fair Share Plan, Specifically the Commons Way sites.

**Comment 1** "The Council's reference to a potential buffer issue affecting Commons Way 3.07 is easily resolved. Although part of the property is located in the Highlands Open Water buffer area, the portion of the property where development will occur was previously disturbed, and is therefore exempt from the buffer restriction..."

**Response:** The comment is noted. The Highlands Area Land Use Ordinance (section 6.2.5.H.2) provides for development within previously disturbed areas of Highlands Open Water Buffers in the Planning Area.

**Comment 2:** "Morris Commons, LLC presently has approvals on the Commons Way 3.06 and Commons Way 3.07 properties from the Township for an office/warehouse development consisting of three industrial buildings with associated parking. ... The proposed development for affordable housing is fully consistent with both the spirit and the letter of the RMP, and should be fully supported by the Council."

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**Response:** As noted in the Final Draft Consistency Review and Recommendations Report, it is agreed that the provision of infrastructure to the site would not require a consistency determination from the Highlands Council. The Council agrees that inclusion of the sites in the Fair Share Plan appears to be consistent with the RMP for purposes of Plan Conformance.

**Municipal Comments:** The Township has identified a proposed municipal park project located at Block 11101, Lot 44. The project has already received permits from the NJDEP. The project is located in the Planning Area. As a municipal project it is not required to receive approvals under the MLUL. The Township has requested clarification as to whether plan conformance may limit their ability to develop this project that has already been designed and received State approvals.

It is recommended that this approval of the Petition for Plan Conformance stipulate the advanced status of the project, and that as of the date of approval of the Township's petition for Plan Conformance, the project be deemed as having received approvals and therefore qualifies for exclusion from applicability of Highlands Council Consistency Determinations or any other impacts from the approval of Plan Conformance. Accordingly, the adoption of the plans and ordinances associated therewith shall not apply to this specific project.

Ms. Swan then summarized the Staff Recommendation for Rockaway 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 (Superior Court). This condition requires updates on Superior Court 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
  - Highlands Redevelopment Area Planning Program
  - Land Preservation & Stewardship Program
  - Septic System Management/Maintenance Plan
  - Right to Farm Ordinance
  - Lake Restoration Management Plan, Phase I Assessment
  - Sustainable Economic Development Plan

Ms. Swan noted the previous Highlands Protection Fund Grants for the Rockaway Township. Ms. Swan reported that Rockaway Township's Fair Share Planning Grant for the development of a Housing Element and Fair Share Plan and Initial Assessment Grant are complete.

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Ms. Swan then reported the future Highlands Protection Fund Grants for Rockaway Township:

- Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:
  - Water Use and Conservation Management Plan for an additional subwatershed, with the Highlands Council serving as the lead for this project.
  - Highlands Redevelopment Area Planning. For review of areas in both the Planning and Preservation Area for potential Highlands Redevelopment Area designation.
  - Release of funding is conditioned upon approval of a scope of work by the Executive Director.
  - Sustainable Economic Development Plan. To evaluate existing economic conditions, conducting surveys and outreach, conducting Strengths, Weaknesses, Opportunities & Threats analysis, and developing a draft Implementation Strategy.
  - Lake Restoration Management Plan, Phase I Assessment. This project will help Rockaway Township and the Highlands Council determine priorities for the later development of Lake Management Plans.
  - Habitat and Conservation Management Plan. The Township will serve as lead for this project

*Mr. Richko made a motion on the Resolution for the Rockaway Township. Mr. Holtaway seconded it.*

Ms. Swan acknowledged James Humphries, Regional Planner and Highlands Staff Liaison for Rockaway Township. She noted that he is Highlands Council lead on issues relating to affordable housing.

Acting Chairman Schrier opened the public hearing on Rockaway Township's Petition for public comment on the proposed Resolution.

**Public Comment**

**Greg Poff – Rockaway Township Business Administrator** – Mr. Poff commented that it is a pleasure being here today on behalf of Mayor Sceusi who had a scheduling conflict. Mr. Poff commented that he is pleased to have Rockaway Township's Plan Conformance documents before Council today for consideration. Mr. Poff further stated that it has been a pleasure working with the Highlands Council staff and interfacing with his local staff, and although it has been a tremendous amount of work getting to this Plan Conformance process, Mr. Poff sees Plan Conformance as a new beginning moving forward now with actual implementation of those various and numerous items outlined today for Rockaway Township. Mr. Poff further stated that with the assistance of the Highlands Council staff and Rockaway Township's commitment, we are certain the township will continued to move forward through this process in a positive way to protect the valuable resources in Rockaway Township.

**Pat Matarazzo, Chair of Rockaway Township Environmental Commission** – Mr. Matarazzo commented that Rockaway Township has similar concerns as West Milford Township whereby we both have water that goes elsewhere and are under a water deficit. Mr. Matarazzo stated that it is a perfect time for a partnership to reconvene with management plans. Mr. Matarazzo further stated that it is a perfect time for a partnership with the state and would appreciate input from all

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municipalities. Mr. Matarazzo further stated that the reallocation process needs to be looked at and we appreciate the input of the Highlands Council staff in moving forward with that process.

Acting Chairman Schrier asked Mr. Poff if Morris County planning department is involved. Mr. Poff concurred that a member from Morris County is going to be a part of this group and a meeting is scheduled for February 25<sup>th</sup>.

**Helen Heinrich, New Jersey Farm Bureau** – Ms. Heinrich asked if there have been any discussions for potential TDR receiving areas to sell some development rights, in particular to the Rockaway Mall.

**Julia Somers, New Jersey Highlands Coalition** – Ms. Somers apologizes for the omission of their comment and reported that the New Jersey Highlands Coalition strongly supports and commends Rockaway Township's Petition for Plan Conformance. Ms. Somers reported that it is a very important step for Rockaway Township to help them with some of their issues to move forward.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey endorses Ms. Somers' comments.

**David Shope, owns property in Lebanon Township** - Mr. Shope asked how Council can keep a straight face when there are communities that ship water elsewhere and are in a water deficit

*All members present voted on the Resolution by roll call. The Resolution was APPROVED 8-0.*

At this time commemorative photos were taken as the Acting Chairman Schrier presented a framed certificate regarding the approval of the Plan Conformance Petition to Rockaway Township Business Administrator Greg Poff.

*Mr. Visioli left the meeting at 3:25pm.*

**Public Comments**

**Len Fariello, Wildlife Preserves, Inc.** – Mr. Fariello read a statement on the Highlands Municipal Build-Out report for Parsippany-Troy Hills where he addressed concerns with how lands owned by Wildlife Preserves are treated. He submitted the report to the Council for the record.

Mr. Fariello expressed support with the Regional Master Plan and the Highlands Act. Mr. Borden commented that Mr. Fariello's report will be researched and addressed.

**Hank Klumpp owns 150 acres in Tewksbury Township** – Mr. Klumpp read a letter he received from Governor Christie dated February 4, 2011. The letter was submitted to Council for the record. Mr. Klumpp commented that he would be happy to attend meetings with Highlands Council staff as a lobbyist on behalf of the landowners.

**David Shope, owns property in Lebanon Township** – Mr. Shope made a suggestion to send Highlands Act to Legislature to examine monetary issues/TDR - \$7 million short and running out of money. Mr. Shope submitted a letter he sent to the newspapers.

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*Mr. Cogger made a motion to adjourn the meeting. Ms. Letts seconded it. The meeting was adjourned at 3:45pm.*

**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: 3/17/11

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 Cogger			✓			
Councilmember Francis			✓			
Councilmember Holtaway			✓			
Councilmember Kovach			✓			
Councilmember Letts	✓		✓			
Councilmember Richko			✓			
Councilmember Vetrano						✓
Councilmember Visioli		✓	✓			
Acting Chairman Schrier			✓			

## PUBLIC COMMENTS



To The Editor:

The Highlands Act was premised on the notion that it was necessary to ensure the supply of cheap and plentiful water to the urban area of the state. Just compensation to landowners and farmers was promised when it became law in 2004. I am proposing one small revenue source towards the \$15 billion in lost equity. This \$15 Billion figure comes from Warren County's expert reports on the effects of the Highlands Act.

The New Jersey Water Supply Authority (N.J.W.S.A.) is a state agency. Its function is to provide water at cost to its customer's. Its biggest customers are New Jersey American Water Co. and Middlesex Water Co. They are "for profit" companies. It currently sells water at \$231/per million gallons (mg.) in the Raritan System. Of that, \$8 per mg. goes towards watershed land acquisition.

I am proposing an additional \$50 per mg. to be used exclusively for highlands landowner compensation. This money should be collected from the consumers the same as other fees are collected by vendors on behalf of the state.

The N.J.D.E.P. has determined the average water consumption, per person, per year, to be almost 23,000 gallons. This means the Yearly cost per person for land preservation is 18 cents. Raising the land preservation part of the N.J.W.S.A.'s costs another \$50 per mg. would mean an additional yearly cost of \$1.14, for a total of \$1.32 per year. This total for land protection of \$58 per mg. would raise about \$3.85 million annually.

\$3.85 million is not that much money when compared to the \$15 billion in lost equity as a result of the Highlands Act. However, it could be a meaningful beginning towards honoring the promises made by the state. This plan along with other compensation mechanisms – none of which are now developed or functional, could start the process of re-establishing trust between this state's government, and it's Highlands farmers and landowners.

The NJWSA is currently going through its annual rate review process. For those that may endorse this proposal, please provide your written comments by March 11 to: Henry S. Patterson, Executive Director, New Jersey Water Supply Authority, 1851 Highway 31, P.O. Box 5196, Clinton, NJ 08809 or e-mail: [hpatterson@njwsa.org](mailto:hpatterson@njwsa.org)

David Shope



# Official's estate at c

By P.C. ROBINSON  
Staff Writer

7-0-06

**BERNARDSVILLE** - With its bucolic hills, pristine pond and menagerie of sheep, pigs and poultry, a borough estate once owned by a prominent national Republican is again in the local spotlight.

The Planning Board on Thursday, March 23, began a public hearing to consider a subdivision proposal by Borough Councilman Mikael Salovaara and spouse Beth Stewart Salovaara. The couple want to subdivide their 61-acre estate at 170 Dryden Road into six, 10-acre residential lots.

The property is the former estate of the late Bernard M. Shanley, a prominent attorney and former aide to President Dwight D. Eisenhower. Mr. Shanley died at the age of 88 on Feb. 25, 1992. The Salovaaras purchased the estate from the Shanley family and took up residence in July 1993.

On Thursday, the Salovaaras, accompanied by attorney Christopher Falcon and planning engineer Eric Keller, assured the board the proposal is for the sole purpose of "dealing with mortality." The couple has five children between the ages of 8 and 17.

Mikael Salovaara, who has aspirations of succeeding Jay Parsons as mayor, stressed that the homes would not be built for some time.

"We have no present interest to do anything with the property," he said. "This is driven by mortality concerns."

Not that the 52-year-old Salovaara, a retired Goldman Sachs investment executive, planned on seeking eternal retirement soon.

"It's my intention to die on this property in 2040, but there are some nights I feel I'm going to die sooner," he quipped.

The board is scheduled to resume the hearing at 7:30 p.m. Thursday, April 20. The date is tentative, however, because some planners failed to bring their calendars to last Thursday's meeting.

The scheduling prompted a light-hearted rhetorical question from Borough Planner P. David Zimmerman.

"I hate to be glib about this, but if the property won't be developed soon, what's the hurry?" he asked.

## Six Lots Sought

The application presented to planners was fairly extensive.

The property consists of 58.13 acres in Bernardsville and 2.84 acres in Mendham Borough. It is bordered by the Ramoths Golf Club in Mendham to the north and single-family estates to the south, east and west. The acreage in Bernardsville is zoned for 10-acre single-family homes.

The Salovaaras want to subdivide the property into six lots, each averaging 439,675 square feet, and eventually build 8,500-square-foot homes on five of them, according to Keller. The sixth lot would contain the family's existing two-story, 8,500-square foot home, the primary barn, an in-ground swimming pool, studio and garage.

Multiple variances are required, including one for a lot on the Bernardsville/Mendham border whose 7.25 acres in Bernardsville would fall short of the 10-acre minimum required. With an additional 2.84 acres in Mendham, though, it would be slightly larger than the minimum.

Additional variances are needed to retain existing farm sheds and structures, some of which would lie on the front lawns of certain lots; for setbacks that fail to meet the town's 40-foot minimum requirement for lot lines; and for setbacks that fail to meet the town's 10-foot requirement along a 900-foot long common driveway that will cross individual property lines.

The Salovaaras also seek approval for septic systems for the individual lots, and a centrally located 30,000-gallon cistern to be used as an emergency water source.

Aside from a few technical questions concerning a timetable for soil testing, board members



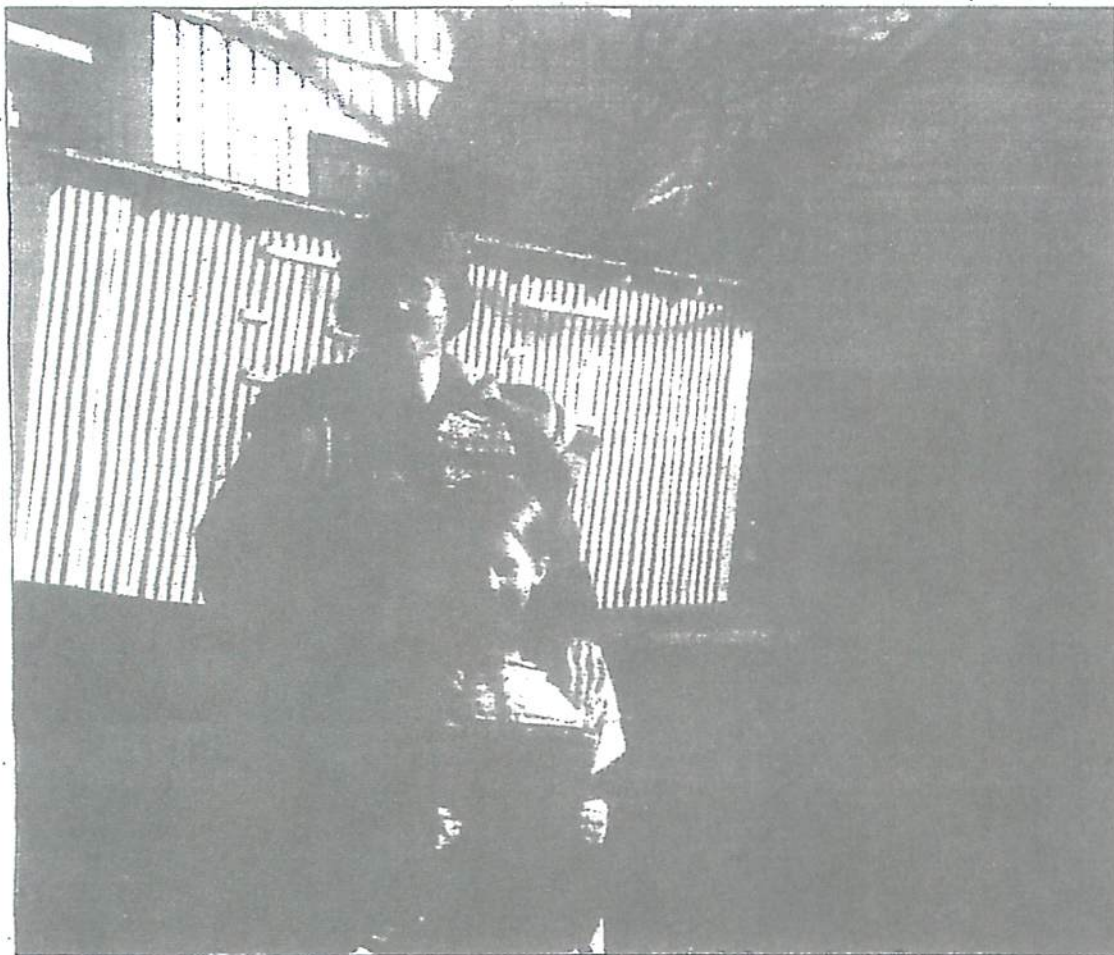
(Photo by P.C. Robinson)

## Eyes For Ewe

Daisy, held by groundskeeper Leslie Joseph, eyes Priscilla Salovaara during a visit to the Salovaara family's 61-acre Dryden Road estate in Bernardsville on Thursday, March 23. Borough Councilman Mikael Salovaara and wife, Beth, want to subdivide the property into six lots for estate planning purposes. Please see story on page 5.



# enter of B'ville subdivision hearing



(Photo by P.G. Robinson)

## All In The Family

Beth Salovaara, left, and daughter, Priscilla, visits the family's poultry stock on their Dryden Road estate in Bernardsville on Thursday, March 23. Salovaara and her husband, Borough Councilman Mikael Salovaara, want to subdivide the property into six lots for estate planning purposes. The estate was the home of the late lawyer and Eisenhower aide, Bernard M. Shanley.

expressed few concerns about the proposal.

Board member Robert Graham, however, did inquire about the proposed common driveway.

He asked whether the drive would encroach upon and disturb the property's pond. The pond, whose waters feed into the north branch of the Raritan River, are classed as Category 1 trout production waters, the state's highest freshwater classification.

Falcon said it would not.

Graham also asked whether a plan for maintaining the common

road could be a condition for the board's approval.

Falcon said that would be acceptable.

## Sheep Tossed In

The estate's prior owner, Mr. Shanley, served as President Eisenhower's special counsel, appointment secretary and deputy chief of staff for five years.

He was the co-founder of the Morristown law firm Shanley and Fisher. A former owner of Roxicus, he twice ran unsuccessfully for U.S. Senate and was a Republican

national committeemen until only weeks before his death. Today the property features a working farm set amid a quiet, untouched countryside. Included is the family home, a brick Georgian mansion built in 1936. The Shanley family had dubbed the estate "Winton."

Beth Salovaara explained that she and her husband got a crash course on raising livestock when purchasing the estate as the sheep were included in the deal.

"They said, 'Oh, we're throwing in the sheep,'" she said. "Rather than send them off, we kept them."

Salovaara said with a lot of help from veterinarian Erno Hollo of Claremont Road, they learned how to raise the animals.

They're still raising them. Last week, the flock totaled 11 adults and 11 little lambs, including Daisy, a four-week old ewe whose mother and twin siblings died in the lambing process.

Beth Salovaara said raising the little creature was left to the tender care of groundskeeper Leslie Joseph. Thanks to Joseph's diligence with a milk bottle, Daisy has now bonded with both he and the family. During last Thursday's visit, she frolicked, butted and followed the humans like a puppy.

Besides Daisy and the other sheep, the farmstead inventory includes four pigs, several chickens and roosters, a ring-necked pheasant, and one very proud male turkey who was proudly fanning his tail despite the absence of interested hens.

According to borough tax records, the four acres that include the Salovaaras' existing residence have a net taxable value of \$3.1 million. In 2004, they paid \$42,763 in property taxes for that part of the property. At present, 54.13 acres are farmland assessed with a net taxable value of \$15,000. In 2004, the couple paid \$238.50 in taxes on those acres.

The state Farmland Assessment Act has been a political bone of contention in the borough for a number of years. Some residents said the state act is being abused to provide tax breaks to the affluent. But proponents claim farmland assessment helps preserve undeveloped land and protects the environment.

Now in the second year of his second, three-year council term, Mikael Salovaara has expressed interest in seeking the Republican Municipal Committee's backing to run for mayor. Mayor Parsons has announced he will not seek reelection when his term expires at the end of December.





Comments submitted at Highlands Council Meeting  
on February 17, 2011 by Hank Klumpp.  
Page 1 of 5

## State of New Jersey

OFFICE OF THE GOVERNOR  
PO Box 001  
TRENTON, NJ 08625-0001

CHRIS CHRISTIE  
Governor

February 4, 2011

Mr. Hank Klumpp  
24 Longview Road  
Lebanon, NJ 08833

Dear Mr. Klumpp:

Thank you for writing to express your concerns about the Highlands Water Protection and Planning Act. I also enjoyed speaking with you in Clinton at the town hall. I appreciate hearing your thoughts on the issue.

As I stated to you, I fully appreciate the importance of the Highlands Region and the need to preserve and protect our water supply. As you know, the Act was signed in 2004 both to preserve New Jersey's open space and protect our drinking water – however, promises made during the execution of the Act simply were not kept to the residents of the region. I sympathize with you and the many others whose property rights were taken from them and who have yet to receive the compensation they were promised.

We need to reach a system in which property owners are either justly compensated or given back the property rights with which they were entitled before the Act. Please be assured that I have recently presented new nominees to the Highlands Council who share our vision and will work to pursue the intent and promise of the Highlands Act. We're working every single day to reform our government and right the wrongs of yesteryear and this area is no exception.

Again, thank you for writing on this issue. Best wishes.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Christie".

Chris Christie  
Governor

January 31, 2011

(i)

## Highlands Water Protection and Planning Council

Comments submitted at Highlands Council Meeting  
on February 17, 2011 by Hank Klumpp.  
Page 2 of 5

Tewksbury was not part of the Highlands original map. Overnight the boundaries were changed. The choice was never scientific - it was all political. I have been asking now for almost seven years to see the scientific study that put my property into the Highlands Preservation Area and still have not been shown. The town changed the zoning from 3 acres to 12 acres to stop development and then the Highlands Act came along and disguised itself as a "water-saver" while all along it was a "land-grab." Why is there nothing on record that shows any township meetings or any resolutions to adopt the Highlands Act?

Farmers are now being punished for keeping their beautiful land over the many generations. They are being punished by the loss of equity. The 13,475 acres of land now in the Highlands Preservation, in Tewksbury, is the land everyone - who is living on only a building lot - loves enjoying -



②

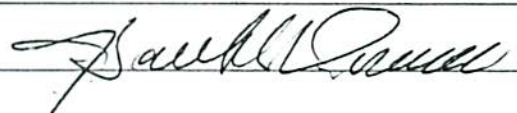
with the views and beauty. Farmers have been stewards of this land for many generations. Farmlands are family investments. With all real estate values taken away, what does the farmer do when he can't farm anymore? How can a township turn its back on people who have invested a lifetime in land that has had its real estate value taken by an Act that was never to harm anyone and yet passed without one cent in place to compensate people for their losses. How can a township allow this to happen? If you haven't owned a farm for generations, you just do not care or understand. People around the corner from my farm never even heard of the Highlands Act. Why? It does not affect them.

The state, for going on seven years, has not lived up to the obligation to find a dedicated funding source to compensate the landowners for the land values taken for the Highlands Act. When someone takes something that belongs to another without agreement or compensation it is known as a theft. Is there a difference because the

③

state is doing the taking? Is it morally right for the many to take from the few?

The state must first compensate the affected property owners before it can exercise the rights it now claims to the property it has stolen. Presently, Tewksbury Township and the Highlands Council are accessories to theft.



Hank Klumpp

24 Longview Road  
Lebanon, N.J. 08833



Things seem to be rushed through like a freight train — politics at work

Have these issues been addressed?

① Equity — where does it stand?

② Mandatory Septic Testing

③ Forest Management Programs-

How will a forest management program that has been in place for over 40 years be treated? Will this property be exempt from further management programs by the Highlands Act?

These questions go on unanswered — they are a nightmare for people who are being taken advantage of.



**WILDLIFE PRESERVES, INC.**

One Gateway Center, Suite 2500  
Newark, New Jersey 07102

DEDICATED TO THE PRESERVATION OF NATURAL AREAS, WILDLIFE, AND WILDLIFE HABITATS

February 17, 2011

New Jersey Highlands Council  
100 North Road  
Chester, New Jersey 07930

Re: Preliminary Comment of Wildlife Preserves, Inc. regarding the Parsippany-Troy Hills  
Township Highlands Plan Conformance — Build out Report

**Dear Highlands Council and Staff:**

Wildlife Preserves, Inc. (Wildlife) owns some 1,355 acres of land in the Township of Parsippany-Troy Hills, located in Troy Meadows, in the Highlands Planning Area—Protection Zone.

In general, large landowners— such as Wildlife Preserves— should have been consulted during the preparation of the Highlands Plan Conformance and Build out Report. For a township to prepare and submit a Plan Conformance and Build-Out Report without notifying affected property owners to view and comment at a public hearing is not reasonable.

The Parsippany-Troy Hills Highlands Plan Conformance — Build out Report is inaccurate and needs to be corrected. The report partially deals with the Troy Meadows area of the Township lying to the East of Beverwyck Road. It divides all the land there into two groups strictly based on ownership. One group consists of all the land owned by Wildlife, the State of New Jersey and other government agencies — and all of this land is rated as unbuildable “Environmentally Constrained Lands” with no “Potentially developable Lots.” The other group consists of all other privately owned land— and all of this land is shown as “Environmentally Constrained Lands” with “Potentially developable Lots”— regardless of physical conditions, wetlands, etc. Apparently this is based on two assumptions— first that all of this land is preserved land and second that all of it is environmentally constrained. Both are factually wrong.

First, the lands of Wildlife are NOT preserved lands. Wildlife’s land is privately owned. Wildlife is a private, nonprofit conservation corporation; its lands were purchased with private donations, without grants, without Green Acres funding or without any sort of tax dollars; it gave no deeds, it gave no promises, and it has no preservation easements or restrictions upon its lands. WP’s land cannot be considered preserved, unless it is acquired in fee or by easement or by the purchase of development rights through the Highlands TDR program.

Wildlife began purchasing its land in Troy Meadows in 1952, long before any flood control or wetlands regulations existed. During the early 1960s and ’70 administrations of Parsippany, the Township was often at odds with Wildlife because it viewed Wildlife as an obstruction to its proposals for economic development.

Against all odds Wildlife retained and protected most of its land in Troy Meadows, except that it has become diminished and degraded by numerous condemnations— including Route 80, Route 280, the Route 280 Access Road, the Route 80/280 Interchange, three high pressure gas pipelines, three electric transmission lines, and Parsippany sewer lines, water lines, pump



**Wildlife Preserves Par-Troy Highlands Plan Conformance February 17, 2011 page 2**

stations, wells, etc. Also Wildlife sold 40 acres of land in Parsippany to the State of New Jersey as a natural area and sanctuary and donated at –no cost– over 60 acres of land for preservation as a sanctuary and natural area.

While it is true that all of Wildlife's land is open to the public, it is not permanently preserved. Accordingly, most all of it has 15F tax exempt status, because Wildlife's land is enrolled in the New Jersey Green Acres Tax Exempt program, which conveys no ownership rights and is temporary (needing to be renewed every three years). If any portion of this land is sold or developed, it would be subject to roll-back taxes. It is also true that for several decades Wildlife paid full municipal taxes on its land.

The second assumption—that ALL of Wildlife's land is environmentally constrained is not based on facts on the ground, but on ownership and lot lines. Wildlife owns many areas of land in Troy Meadows that are NOT "Environmentally Constrained Lands," many lots that were previously cleared, filled, farmed, and disturbed; some lots that were subdivided and some that are located and surrounded by residential developments. Lands that are disturbed, lots that have been previously subdivided, and lands that have development potential should NOT be regarded as "Environmental Constrained Lands." The Highlands map layers reveal many acres of Wildlife property that are upland areas outside of the state wetlands mapping. Although much of Troy Meadows are meadowlands, Wildlife owns several upland areas within neighborhoods and along roadways that are well above the floodplain and wetlands— some areas are even located up on hills and hillsides. Wildlife also owns a legally approved and recorded 11-lot subdivision (that predates the NJ Freshwater Wetland Protection Act) that was improperly merged by the Township.

While WP has no plans to develop its land, however, by listing all its landholdings in Troy Meadows as "Environmental Constrained Lands" with NO "Potential Developable Lots" is inaccurate and diminishes the value of its land holdings and makes it easier for condemning authorities to take land for utilities, power/pipelines, highways, roads, etc.

Troy Meadows has already been greatly damaged by multiple construction activities as a result of condemnation. Two condemning agencies have openly admitted that the nearly free land they took from Wildlife was a major incentive for choosing Wildlife's land over other properties. Listing Wildlife's land with NO "Potential Developable Lots" only perpetuates the likelihood of further takings and reduces the chances that it will ever be available for permanent preservation.

Some of Wildlife's land has been assessed for future sewerage capacity and some Wildlife land is improved with sewerage pipelines running through its property— areas in the Par-Troy Sewerage Service Area include WP's lands in the vicinity of Alan Drive, Bennett Court, Marsha Terrace, Troy Meadow Road, Brookside Court, and land fronting on south Beverwyck Road.

Thank you for considering Wildlife Preserves' comments. If you have any questions or concerns regarding these comments, please feel free to contact Len Fariello, project coordinator for Wildlife Preserves at 973-539-5355.

**WILDLIFE PRESERVES, INC.**



**WILDLIFE PRESERVES, INC.**

One Gateway Center, Suite 2500  
Newark, New Jersey 07102

DEDICATED TO THE PRESERVATION OF NATURAL AREAS, WILDLIFE, AND WILDLIFE HABITATS

**Morris County Office**

336 Whippany Road, Whippany, NJ 07981

973- 539-5355 Fax: 973-539-4477

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**February 17, 2011**

**Comment of Wildlife Preserves, Inc.**

**Re: Parsippany-Troy Hills Township Highlands Plan Conformance — Build out Report**

Wildlife Preserves, Inc. (WP) offers the following comments regarding the Parsippany-Troy Hills Township Highlands Plan Conformance—Build out Report, dated July 2009—

1. WP owns some 1,355 acres of land in the Township of Parsippany-Troy Hills, located in Troy Meadows, in the Highlands Planning Area—Protection Zone.
2. WP began purchasing its land in Troy Meadows in 1952, long before any flood control or wetlands regulations existed. During the early 1960s and '70 administrations of Parsippany, the Township was often at odds with WP because it viewed WP as an obstruction to progress and economic development.

Against all odds WP retained and protected most of its land in Troy Meadows, except that it has become diminished and degraded by numerous condemnations— including Route 80, Route 280, the Route 280 Access Road, the Route 80/280 Interchange, three high pressure gas pipelines, three electric transmission lines, and Parsippany sewer lines, water lines, pump stations and wells, etc. Also WP sold and also donated—at no cost— some of its land in Parsippany to the State of New Jersey for preservation as a natural area and wildlife sanctuary.

3. As a large landholder in Parsippany-Troy Hills— WP should have been consulted in the preparation of the Highlands Plan Conformance and Build out Report.

4. For the Township to prepare and submit the Plan Conformance and Build-Out Reports and the Highlands Council to accept the Plan Conformance and Build-Out Reports without notifying affected property owners to view and comment at a public hearing is not proper.

5. The Highlands Plan Conformance—Build out Report erroneously illustrates ALL the land owned by WP as “Environmentally Constrained Lands” — and NO lots owned by WP as “Potential Developable Lots.” This is a general assumption and factually incorrect.

6. It is inaccurate to illustrate “Potential Developable Lots” and “Environmentally Constrained Lands” by lot lines and lot ownership. These criteria should be based on science, not political boundary lines or tax data.

*Continued next page—*



7. In Troy Meadows— the criteria apparently used to determine “Potential Developable Lots” is strictly based on ownership. All of WP’s vacant, private lots are illustrated as undevelopable, while all other private vacant lots (*many located in deep water with flood and wetland constraints*) are illustrated as developable!

Certainly lots exist that are environmentally constrained or potentially developable; however there are also large vacant lots that are both. It is inaccurate to simply label entire lots as either one or the other. The designation “Potentially Developable Lots,” should be changed to “Potentially Developable Lands” and the designations should follow scientific boundaries, not lot line boundary.

Determining development potential simply by lot boundaries or ownership is not accurate. The Build-Out Report is flawed and needs to be corrected.

8. WP’s land is privately owned and NOT permanently preserved.

- a) WP is a private, nonprofit conservation corporation. Its lands were purchased with private donations, without grants, without Green Acres funding or without tax dollars; it gave no deeds, it gave no promises, it has no preservation easements or restrictions upon its lands and its lands are NOT permanently preserved. (WP’s land cannot be considered preserved, unless it is acquired in fee or by easement for preservation or WP is compensated for its development rights (through the Highlands TDR program).
- b) For several decades WP paid full municipal property taxes. WP currently provides a public benefit in exchange for exempt status pursuant to N.J.S.A. 54:4-3.63 et seq. WP land is classified with 15F tax status — open to the public but not permanently preserved. The current 15F tax status is temporary preservation — the Green Acres Tax Exempt program conveys no ownership rights, it is a three-year program that must be renewed and approved every three years.

9. WP owns lots and part of lots in Troy Meadows that are not “environmentally constrained lands” and that are “potential developable lots.”

- a) WP owns many areas of land in Troy Meadows that are NOT “Environmentally Constrained Lands”— many lots that were previously cleared, filled, farmed, and disturbed; some lots that were subdivided and some that are located and surrounded by residential developments.
- b) Lands that are disturbed, lots that have been previously subdivided, and lands that have development potential should NOT be included as “Environmental Constrained Lands.”
- c) The Highlands map layers reveal many acres of WP property are upland areas outside of the state wetlands mapping. Although much of Troy Meadows are meadowlands, WP owns several upland areas within neighborhoods and along roadways that are well above the floodplain and wetlands (some areas are even located up on hills and hillsides).

*Continued next page—*

10. WP has no plans to develop its land, however, by listing all its landholdings in Troy Meadows as “Environmental Constrained Lands” with NO “Potential Developable Lots” is inaccurate and diminishes the value of its land holdings and makes it easier for condemning authorities to take land for utilities, power/pipelines, highways, roads, etc.

Troy Meadows has already been greatly damaged by multiple construction activities as a result of condemnation. Two condemning agencies have openly admitted that the nearly free land they took from WP was a major incentive for choosing WP’s land over other properties. Listing WP’s land with NO “Potential Developable Lots” only perpetuates the likelihood of further takings and reduces the chances that the land will ever be available for permanent preservation.

11. Some of WP land is assessable to the Par-Troy wastewater sewerage system.

- a) WP was forced to pay sewerage assessments for future sewerage capacity and connections when a sewer line was installed along WP’s upland road frontage on S. Beverwyck Road to service several large housing developments that were built there.
- b) Some of WP land is improved with Par-Troy sewerage pipelines running through its property, especially in the vicinity of Alan Drive, Bennett Court, Marsha Terrace, Troy Meadow Road, and Brookside Court.

12. A NJ DEP Letter of Interpretation (LOI) is the only true, legal criteria that can be used to differentiate between potential developable and unbuildable lands.

WP recently surveyed its land with the intention of subdividing its land to delineate its wetlands and uplands.

13. WP owns a legally approved and recorded 11-lot subdivision (that predates the NJ Freshwater Wetland Protection Act). It was improperly merged by the Township—and WP is attempting to correct the improper merger.

14. WP commented at the Highlands Master Plan public hearings and expressed its support for the Highlands Act with the condition that private property owners receive compensation for the development rights of their land to compensate for the loss of property values.

**Len Fariello**  
[LFariello@aol.com](mailto:LFariello@aol.com)

**WILDLIFE PRESERVES, INC.**



NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MINUTES OF THE MEETING OF FEBRUARY 17, 2011

**PRESENT**

JACK SCHRIER ) ACTING CHAIRMAN

KURT ALSTEDDE ) COUNCIL MEMBERS

BILL COGGER )

MICHAEL FRANCIS )

ROBERT HOLTAWAY )

JANICE KOVACH )

MIMI LETTS )

CARL RICHKO )

JAMES VISIOLI )

**ABSENT**

TRACY CARLUCCIO )

GLEN VETRANO )

**CALL TO ORDER**

The Acting Chairman of the Council, Jack Schrier, called the 102<sup>ND</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 1:06pm.

**ROLL CALL**

Roll call was taken. Mr. Vetrano and Ms. Carluccio 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 JANUARY 20, 2010**

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

**ACTING CHAIRMAN'S REPORT**

Acting Chairman Schrier reported that Council is down to nine members for this meeting. He reported that there are no Highlands Council nominations that are being acted on this week. Acting Chairman Schrier stated that it is becoming critically important that current Council Members are present since we are in the implementation phase of the RMP. Acting Chairman Schrier is very pleased by Council's attendance especially during this time to bring municipalities into Plan Conformance.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MINUTES OF THE MEETING OF FEBRUARY 17, 2011

**EXECUTIVE DIRECTOR'S REPORT**

**Plan Conformance Update**

Ms. Swan gave a brief summary update to the Council on Plan Conformance Petition reviews. To date 64 Petitions (from 59 Municipalities and 5 Counties) have been submitted to the Highlands Council (51 have been deemed administratively complete and posted to the Highlands Council website - including 2 Counties). Of these, fourteen Petitions have been approved (Townships – Bethlehem, Byram, Chester, Denville, Green, Mahwah & Mount Olive; Boroughs – Califon, Glen Gardner, Hampton, High Bridge & Lebanon; Towns – Clinton; and Passaic County). On today's meeting agenda three municipalities will be considered for Plan Conformance (West Milford, Tewksbury Township and Rockaway Township).

There are seven municipal response periods underway for municipalities (Townships – Franklin, Holland, Parsippany-Troy Hills, and Washington (Morris); Boroughs – Kinnelon and Bloomingdale. Thirteen additional Draft Consistency Reports are prepared and under internal review; another eleven are in development by Staff. Ms. Swan showed three different maps which showed the progress of Highlands Council Plan Conformance status of Petitions.

**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.

<u>Towns</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,728	71
Module 2	\$10,000	\$ 6,720	68
Module 3	\$ 7,500	\$13,816	53
Module 4	\$ 2,000	\$ 3,214	58
Module 5	\$ 2,500	\$ 6,118	51
Module 6	\$ 5,000	\$ 4,381	48
Module 7	<u>\$ 8,000</u>	<u>\$ 6,870</u>	45
<b>Total</b>	<b>\$50,000</b>	<b>\$54,847</b>	

**TDR Program Update**

Ms. Swan gave an update on the TDR Program. Third Round of HDC Acquisition Consideration to be held during HDC Bank meeting on April 7, 2011 includes two new categories under consideration:

- Parcels of Land that received Exemption #3, but that exemption has since expired; and
- Special Environmental Zone Lands and High Value Agricultural Priority Lands, where property has been offered for preservation purposes since August 10, 2004, but property did not qualify for a preservation program administered by a public entity.

Applications for an HDC Allocation under this Third Round will be accepted through February 24, 2011. To encourage participation, over 250 letters were sent to property owners with lands identified in either the Special Environmental Zone or High Value Agricultural Priority Area. To date, we have received 11 applications and have responded to over 30 calls from property owners in response to letters.



NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MINUTES OF THE MEETING OF FEBRUARY 17, 2011

Ms. Swan then presented the status of Second Round of HDC Acquisition Consideration. Ms. Swan reported that four property owners received offers from the HDC Bank to acquire the HDCs allocated to their properties; to date, 3 of the offers have been accepted and the fourth is pending and speaking with Green Acres. In total, HDC Bank has offered to acquire 54.5 HDCs valued at \$872,000 through this round. If all offers are accepted and close, another 83 acres in the Preservation Area will be permanently protected.

**Public Hearing and Consideration of Resolution – Petition for Plan Conformance by West Milford Township, Passaic County**

Acting Chairman Schrier asked for an overview of West Milford's Petition for Plan Conformance. Ms. Swan acknowledged that West Milford Township's Planning Board Chairman Andrew Gargano is present today on behalf of Mayor Bieri. Ms. Swan advised Council that Mayor Bieri has worked extremely closely with the Highlands Council and is a great voice for her municipality and has talked often for the need for assistance particularly for municipal projects in those municipalities which are nearly all or entirely in the Preservation Area. Mayor Bieri has been a champion for that cause and the Highlands Council worked with West Milford on a redevelopment area designation for an expanded municipal library. Mayor Bieri would have been with us today but unfortunately her daughter has sustained serious injuries in a car accident and the Mayor has not left her bedside since the accident. Ms. Swan noted that Acting Chairman Schrier suggested before the meeting that though we will have the customary celebratory photograph with Mr. Gargano we would be delighted to have Mayor Bieri back at a later date for a commemorative photograph.

Ms. Swan stated that Mr. Borden would first address a legal issue before the Plan Conformance overview. Mr. Borden informed the Council that a legal analysis was done with respect to Council member Carl Richko's participation in the meeting as it pertains to West Milford. As Council is aware, Mr. Richko was the Mayor of West Milford some 16 years ago so the analysis was done to see if there was a conflict of interest. The State Ethics Commission provided the Council with an analysis that differentiated between the Council's public members and elected official members. Mr. Richko was appointed as a public member for West Milford and based upon his position Mr. Richko is eligible to participate in the Council's action on this Petition.

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

- Established: 1834
- Population 27,746
- Land Area: 51,848 acres / 81 sq. mi.
- Preserved Lands: 33,378 acres
- Wetlands: 5,353 acres
- Total Forest: 40,390 acres

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- Farmland: 347 acres

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

- Preservation Area Lands: 51,846 acres – 100%
- Protection Zone – 46,392 acres – 89.5% (Roads 3%)
- Existing Community Zone – 3,889 acres – 7.5%
- Conservation Zone – 0 acres – 0%
- Highlands Open Water Protection – 30,543 acres – 59%
- Forest Resource Area – 50,860 acres – 98%
- Conservation Priority Areas – 12,181 acres – 23%
- Special Environmental Zone – 2,398 acres – 5%

**West Milford Township  
Background Statistics – Land Use**

<b>NJDEP Land Use/Land Cover</b>	<b>Pres</b>	<b>Percent</b>
Residential (Single & Multi Family)	5,202	10.0%
Commercial (Retail)	405	0.8%
Industrial & Transportation & Utilities	648	1.3%
Agriculture (Crops & Plantations)	531	1.0%
Recreational Lands (Public & Private)	270	0.5%
Extractive Mining	66	0.1%
Other Urban or Built-Up Land	324	0.6%
<b>Subtotal Developed Lands</b>	<b>7,446</b>	<b>14.4%</b>
Mixed Forest	34,852	67.2%
Shrub & Scrub	184	0.4%
Mixed Wetlands	5,351	10.3%
Barren Lands	139	0.3%
Water	3,874	7.5%
<b>Subtotal Natural Lands</b>	<b>44,400</b>	<b>85.6%</b>
<b>Total</b>	<b>51,846</b>	<b>100.0%</b>

Ms. Swan then showed a movie representing a ‘fly over’ of West Milford Township. The movie offered an opportunity to focus on the landscape of the Township. Ms. Swan also showed ordinance maps for West Milford Township and continued to provide an overview of the Petition of Plan Conformance and the administrative record for the Township as follows:

12/8/09	Petition for Plan Conformance Submitted
2/4/10	Petition Deemed Administratively Complete
2/9/10	Petition Posted to Highlands Council Website
12/23/10	Draft Consistency Report Sent to Municipality
1/20/11	Final Draft Report Posted to Highlands Council Website

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2/4/11	End of Public Comment Period (Start 1/20/11)
2/10/11	Final Report Posted to Highlands Council Website
2/17/11	Highlands Council Public Hearing

Ms. Swan noted that West Milford Township had completed the Module submittals required under Plan Conformance. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for West Milford 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 and a revised version was posted to the Highlands Council website on July 23, 2009. Staff RMP Consistency Finding is that West Milford Township Highlands Municipal Build-Out Report is consistent with the RMP. With respect to Module 3, the Council staff found that West Milford Township's Fair Share Plan and Housing Element was consistent with the RMP.

Ms. Swan then asked Mr. Borden to brief Council on the present judicial and legislative status of Module 3 requirements which are applicable for all municipalities being considered today. Mr. Borden reported that the Supreme Court of New Jersey has issued a stay of the Appellate Division's decision on COAH's Round 3 rules. In addition, Senate Bill #1 has been vetoed by the Governor, was withdrawn by the Legislature and it is anticipated that a revised bill amending the Fair Housing Act will be announced soon. Given this, it is recommended that the Highlands Council continue to consider municipalities for Plan Conformance conditioned on compliance with the eventual resolution on affordable housing litigation or legislation and all approved municipalities will be required to resubmit an amended Fair Share Plan and Housing Element to Council.

Ms. Swan then continued with her presentation and 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 West Milford 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 West Milford 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 West Milford 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 West Milford Township's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan then presented a summary of the public comments received and a summary of the draft responses prepared by Highlands Council staff for West Milford Township's Petition for Plan Conformance. The public comment period for West Milford Township's Petition for Plan Conformance opened on January 20, 2011 and closed February 4, 2011. Notice was given in area

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newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system.

Comments received from:

- Kevin Walsh, Esq., on behalf of the Fair Share Housing Council
- New Jersey Highlands Coalition

Comments submitted by Fair Share Housing Center:

**Summary of Comments:** The Fair Share Housing Center objects to reliance on the Highlands build-out numbers for calculating the township's fair share obligation of affordable housing.

- **Summary of Response:** These comments specifically relate to matters that are pending before the Appellate Division in litigation filed by Fair Share Housing Center. The Petition should be approved conditioned upon achieving and retaining compliance with the Fair Housing Act. In addition, the response clarifies that the Build-out Report is based upon the Highlands Act and RMP Requirements.

Comments submitted by Julia Somers, New Jersey Highlands Coalition:

**Comment:** It will take considerable resolve by the Township to meet its affordable housing obligations.

- **Response:** The Township's Housing Element and Fair Share Plan have been determined to be consistent with the RMP. The Council recognizes the constraints placed on the Township regarding affordable housing and will work with the Township to fulfill their obligations.

**Comment:** The Coalition supports the development of Water Use and Conservation Management Plans (WUCMP) and asks when they will begin and be completed.

- **Response:** The WUCMPs that will be established for municipal conformance will begin after completion of the Council's ongoing pilot program. This will enable the Council to utilize the benefits of those projects to be applied to new planning efforts.

**Comment:** The Coalition notes that West Milford continues to seek Center designation with the Office of State Planning. Because it is entirely Preservation Area, it is appropriate that the Township stop pursuing Center designation from that agency.

- **Response:** West Milford is an entirely Preservation Area municipality and thus must conform to the Regional Master Plan. Through Plan Conformance they may seek center designation but that center would still be subject to the Highlands Act, the Highlands DEP rules and the Highlands Regional Master Plan. Council staff will work with West Milford to address this.

Acting Chairman Schrier clarified that it would be a Highlands Center Designation Area. Ms. Swan concurred and said that West Milford is entirely in the Preservation Area so it would not be similar to Byram Township which was a Highlands Center Designation in the Planning Area. A Highlands Center in the Preservation Area would be subject to the Highlands Act restrictions and the DEP Highlands rules.

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

- Compliance with the 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 & Management Plan
  - Highlands Redevelopment Area Planning Program
  - Land Preservation & Stewardship Program
  - Right to Farm Ordinance
  - Stream Corridor Protection & Restoration Plan

Ms. Swan reminded Council that all obligations for the work continued on Plan Performance are always conditioned upon the availability of funding because the Highlands Act made it clear that municipalities would have that funding for the reasonable costs associated for Plan Conformance.

Ms. Swan then reported the previous Highland Protection Fund grants for West Milford Township. The Fair Share Planning Grant for the development of a Housing Element and Fair Share Plan and Initial Assessment Grant are complete, West Milford Township's Municipal Pilot Planning Project Grant to explore redevelopment opportunities and an eco-tourism plan is complete; and the Initial Assessment Grant report is complete. West Milford's Water Use and Conservation Management Plan pilot grant is ongoing.

Ms. Swan then reported the future Highlands Protection Fund grants for West Milford Township:

- Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:
  - Water Use and Conservation Management Plan for two additional subwatersheds, with the Highlands Council serving as the lead for this project.
  - Highlands Redevelopment Area Planning to initiate planning to examine potential for redevelopment areas consistent with the Regional Master Plan.

*Mr. Richko made a motion to approve the Resolution for West Milford Township. Ms. Kovach seconded it.*

Acting Chairman Schrier opened the public hearing on West Milford Township's Petition for public comment on the proposed Resolution.

**Public Comment**

**Andrew Gargano, Planning Board Chair for West Milford Township** – Mr. Gargano, who grew up on Long Island before meeting his wife and settling in West Milford Township in 1986, embraced the Highlands Act in 2004 because of the over development throughout the area. Mr. Gargano stated that West Milford is in a water deficit area and 90% of its residents are on well water using ground water within rock formations. Mr. Gargano further stated that it is essential to survival in the future to approve West Milford's Petition for Plan Conformance. The State of New Jersey took action to protect the future with the passage of the Act. West Milford gives millions of

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residents in New Jersey drinking water. He stated that Mayor Bieri truly wanted to be here today and he read a text message that he received from her and stating to Council how important it is for the West Milford community that they conform to the Highlands RMP. Mr. Gargano further stated that West Milford appreciates the grant money to help with this cause and thanks the Council and the State of New Jersey for thinking ahead. He complemented the Highlands Council staff.

**Helen Heinrich, New Jersey Farm Bureau** – Ms. Heinrich stated that this is an example that gives the Farm Bureau much concern for the most flexibility and leeway to agriculture, since West Milford is entirely in the Preservation Area and has no Conservation Zone. Ms. Heinrich further stated that putting the requirement for the Right-to-Farm Act will be very helpful and that will open up the discussion about what farmers need and can do. Ms. Heinrich hopes that the conservation priority lands will continue to be preserved and land owners compensated.

**Julia Somers, New Jersey Highlands Coalition** – Ms. Somers stated that after conversing with Mr. Richko it was determined that West Milford is the heart of the highlands! Ms. Somers commented that it is important that West Milford is moving forward with Plan Conformance. Ms. Somers further commented how it is ironic that a township that sends so much water to northern New Jersey has a serious water problem, so a Water Use and Conservation Management Plan will be important for West Milford and she wishes them good luck.

**David Shope, owns property in Lebanon Township** – Mr. Shope questioned how West Milford sends water to Newark amongst other places and has a water deficit based on a statute that New Jersey is in a drought; so if legislators say we are in a drought then it must be true. Mr. Shope questions the authority of Council to impose conditions on a town in the Preservation Area which is already restricted by NJDEP. Mr. Shope also submitted a 2006 newspaper article regarding a subdivision before Bernardsville planning board by Mikael Salovaara for purposes of addressing his mortality concerns while land owners elsewhere in the Highlands continue to twist in the wind.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey congratulates West Milford on conforming to the Regional Master Plan. It is a great place to take legislators to see the importance of the Highlands Act. Mr. Frey stated that she is glad to see this happen.

**Council Comments**

Mr. Richko commented that Mayor Bieri is disappointed for not being here today and expressed her thanks to the Council for their support. West Milford is in a water deficit area and any future development would have an effect on current homeowners. The Township supplies water to so much of the state. Mr. Richko is in favor of West Milford's Plan Conformance and hopes the council approves their Petition today.

Ms. Letts asked Mr. Richko what are the sources of the water that supply waters to West Milford's reservoirs. Mr. Richko responded that there are numerous streams and rivers within West Milford's Pequannock and Wanaque watersheds.

Ms Swan acknowledged Jim Hutzelmann, Water Resources Engineer and Highlands Staff Liaison for all of his work on West Milford Township.



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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 Planning Board Chair Andrew Gargano.

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

Ms. Swan acknowledged Committeeman Lou DiMare representing Tewksbury Township at today's hearing.

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

*Acting Chairman Schrier left the meeting at 1:56pm*

Ms. Swan presented background statistics and information for Tewksbury Township.

- Established: 1798
- Population: 6,076
- Land Area: 20,326 acres / 31.7 sq. mi.
- Preserved Lands: 3,645 acres
- Wetlands: 893 acres
- Total Forest: 9,409 acres
- Farmland: 5,968 acres

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

- Preservation Area Lands: 13,469 acres – 66%
- Planning Area Lands: 6,857 acres – 34%
- Conservation Zone – 12,060 acres – 59.4%
- Protection Zone – 7,442 acres – 36.6% (Roads 2.9%)
- Existing Community Zone – 228 acres – 1.1%
- Highlands Open Water Protection – 7,661 acres – 38%
- Forest Resource Area – 10,249 acres – 50%
- Agricultural Priority Areas – 7,494 acres – 37%
- Conservation Priority Areas – 2,379 acres – 12%

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**Tewksbury Township**  
**Background Statistics – Land Use**

<b>NJDEP Land Use/Land Cover (2007)</b>	<b>Plan</b>	<b>Pres</b>	<b>Percent</b>
Residential (Single & Multi Family)	857	3,032	19.1%
Commercial (Retail)	43	29	0.4%
Industrial & Transportation & Utilities	70	116	0.9%
Agriculture (Crops & Plantations)	2,659	3,271	29.2%
Recreational Lands (Public & Private)	30	52	0.4%
Extractive Mining	77	0	0.4%
Other Urban or Built-Up Land	85	196	1.4%
<b>Subtotal Developed Lands</b>	<b>3,820</b>	<b>6,696</b>	<b>51.7%</b>
Mixed Forest	1,897	5,784	37.8%
Shrub & Scrub	683	385	5.3%
Mixed Wetlands	369	515	4.3%
Barren Lands	20	14	0.2%
Water	69	75	0.7%
<b>Subtotal Natural Lands</b>	<b>3,037</b>	<b>6,773</b>	<b>48.3%</b>
<b>Total</b>	<b>6,857</b>	<b>13,469</b>	<b>100.0%</b>

Ms. Swan then showed a movie representing a ‘fly over’ of Tewksbury Township. The movie offered an opportunity to focus on the landscape of the township, in particular noting the difference between the Planning and Preservation Area lands. Ms. Swan showed ordinance maps of Tewksbury Township and continued to provide an overview of the Petition of Plan Conformance and the administrative record for the Township as follows:

*Acting Chairman Schrier returned to meeting at 2:01pm.*

12/8/09	Petition for Plan Conformance Submitted
3/31/10	Petition Deemed Administratively Complete
4/9/10	Petition Posted to Highlands Council Website
8/27/10	Draft Consistency Report Sent to Municipality
1/20/11	Final Draft Report Posted to Highlands Council Website
2/4/11	End of Public Comment Period (Start 1/20/11)
2/10/11	Final Report Posted to Highlands Council Website
2/17/11	Highlands Council Public Hearing

With respect to Module 1 and 2, Ms. Swan explained that the Highlands Municipal Build-Out Report for Tewksbury Township was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The Build-Out Report was updated since first issued to the municipality based upon information provided at a later date. The date of the Highlands Municipal Build-Out Report is August 2009. The Staff RMP Consistency Finding is that Tewksbury Township’s Highlands Municipal Build-Out Report is consistent with the RMP.

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With respect to Module 3, Ms. Swan specified that the Staff RMP Consistency Finding is that Tewksbury Township's Fair Share Plan and Housing Element is consistent with the RMP. Ms. Swan noted that Tewksbury Township has done a great job with meeting their affordable housing obligations. Ms. Swan then showed pictures of an historic building in Tewksbury which was remodeled for three affordable units in the Township. This was an example of affordable housing developed consistent with the character of Tewksbury.

With respect to the Environmental Resource Inventory, Module 4, the Staff RMP Consistency Finding is the Tewksbury Township's Environmental Resource Inventory is consistent with the RMP. With respect to the Master Plan Highlands, Module 5, the Staff RMP Consistency Finding is that the Tewksbury Township's Master Plan Highlands Element is consistent with the RMP. Tewksbury 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 Tewksbury 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 responses given by the Highlands staff for Tewksbury Township's Petition for Plan Conformance. The public comment period for Tewksbury's Petition for Plan Conformance opened January 20, 2011, and closed February 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:

- Kevin Walsh, Esq. on behalf of the Fair Share Housing Center
- Hank Klumpp, Property Owner
- Robin Love, President, Resident's Alliance for Neighborhood Preservation, Inc.
- George C. Cassa, Alliance for Historic Hamlets
- Basil Hone and Frances Spann, Citizens to Save Tewksbury
- Julia Somers, Executive Director on behalf of the New Jersey Highlands Coalition

Comments submitted by Fair Share Housing Center:

**Comment:** The Fair Share Housing Center objects to reliance on the Highlands build-out numbers for calculating the township's fair share obligation of affordable housing.

**Response:** These comments specifically relate to matters that are pending before the Appellate Division in litigation filed by Fair Share Housing Center. The Petition should be approved conditioned upon achieving and retaining compliance with the Fair Housing Act. In addition, the response clarifies that the Build-out Report is based upon the Highlands Act and RMP Requirements.

Comments submitted by Hank Klumpp:

**Comment:** Mr. Hank Klumpp submitted comments regarding inclusion of Tewksbury in the Highlands, the scientific basis for mapping, the establishment of the Preservation Area boundary, and land owner equity issues.

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**Response:** Tewksbury Township was first identified in the Highlands Region mapping as a part of the 2001 New Jersey State Development and Redevelopment Plan. The 2001 State Plan analyzed the significant resources of the Highlands and concluded that nearly 70 percent of the area is mapped as Environmentally Sensitive. Extensive federal studies conducted by the United States Forest Service in 1992 and 2002 led to the federal Highlands Conservation Act signed by President Bush in 2004. The delineation of the Preservation Area boundary was an action of the Legislature and the Council has no authority to modify the boundary. The establishment and boundary of the Preservation Area were supported in two decisions: *OFP, L.L.C. v. State and County of Warren v. State*.

With respect to landowner equity, the Highlands Act includes a provision for a “strong and significant commitment by the State to fund the acquisition of exceptional natural resource value lands.” The Highlands Council recently completed a report that found that since July 2008, 7,690 acres have been added as preserved lands. The Highlands Region presently has a total of 290,214 preserved acres. The report concluded that since 2008 SADC Farmland Preservation Program has paid an average of \$9,816 per acre for development rights in the Preservation Area and \$14,288 per acre in the Planning Area. Under the Green Acres Program in the Preservation Area, properties have averaged \$10,265 per acre, while in the Planning Area properties have averaged \$19,957 per acre. Finally, under the Highlands TDR Program, for those Preservation Area properties that have received an allocation of HDCs, the average per acre land value is \$10,135.

Comments submitted by Robin Love, President, Resident’s Alliance for Neighborhood Preservation, Inc.; George C. Cassa, Alliance for Historic Hamlet; Basil Hone and Frances Spann, Citizens to Save Tewksbury:

**Comment:** Letters of support were submitted for the Township’s Petition for plan conformance, particularly supporting the removal of the Route 78 Sewer Service Area from Tewksbury Township’s Wastewater Management Plan as being consistent with the Township’s Petition and the RMP.

**Response:** The Highlands Council acknowledges the support for the Township’s Petition for Plan Conformance and will continue to work with the Township to develop a Wastewater Management Plan consistent with the Goals, Policies and Objectives of the RMP.

Comments submitted by Julian Somers, New Jersey Highlands Coalition:

**Comment:** The Coalition supports Tewksbury Township’s Petition for plan conformance and supports the recommendation that jurisdiction over Critical Habitat areas of the Highlands Region will rest in large part with the Highlands Council and the NJDEP.

**Response:** The Highlands Council acknowledges the New Jersey Highlands Coalition’s support for the Township’s Petition for plan conformance and recommendation for jurisdiction for Critical Habitat areas.

**Comment:** The New Jersey Highlands Coalition notes that the Township has elected not to include a Historic, Cultural & Archaeological Resources Ordinance and supports the Township’s future adoption of the Ordinance

**Response:** Tewksbury has an existing Historic Preservation Commission and protective ordinances. They also have a Scenic Roads Commission. The Township can augment these protections through Plan Conformance. They did not make an actual determination that they would not include further protections consistent with their work in this area in the past.

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**Comment:** The New Jersey Highlands Coalition wanted to confirm that, in the Planning Area, the RMP prohibits the creation or extension of public water supply systems and wastewater collection and treatment systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-Zones until or unless authorized by the Highlands Council.

**Response:** In the Planning Area – Protection Zone, Conservation Zone and Environmentally Constrained Sub-Zones, new, expanded or extended public water systems, wastewater collection and treatment systems, and community on-site treatment facilities are permitted only where approved by the Highlands Council and included within a NJDEP-approved Wastewater Management Plan. However, it was pointed out that zone changes could occur through: RMP Updates, Map Adjustments, Center Designation and/or TDR designated Receiving Areas.

Ms. Swan then summarized the Staff Recommendation for Tewksbury 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
  - Green Building/Environmental Sustainability/Alternative Energy Plan
  - Right to Farm Ordinance
  - Agricultural Retention Plan
  - Stream Corridor Protection & Restoration Plan

Ms. Swan then reported the previous Highlands Protection Fund Grants for the Tewksbury Township. The Fair Share Planning Grant for the development of a Housing Element and Fair Share Plan and the Initial Assessment Grant are complete. The Transfer of Development Rights Feasibility Grant is ongoing.

Ms. Swan then reported the future Highlands Protection Fund Grants for Tewksbury Township:

- Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:
  - Water Use and Conservation Management Plan for an additional subwatershed, with the Highlands Council serving as the lead for this project.

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- Stream Corridor Restoration/Protection Plan to address existing stream restoration needs, potential stream impacts of future land uses, and mitigation options beyond those contained within the Highlands Land Use Ordinance.
- Habitat Conservation & Management Plan in recognition of the large areas of Critical Habitat in the Township, and the potential for both unavoidable disturbance and restoration opportunities.
- Agricultural Retention Plan – To plan for methods to improve the sustainability and profitability of farming in the Township, recognizing the large agricultural area.
- Green Building/Environmental Sustainability/ Alternative Energy Plan – To help the Township identify and plan for issues regarding on-site alternative energy facilities and green building options.

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

Acting Chairman Schrier opened the public hearing on Tewksbury Township's Petition for public comment on the proposed Resolution.

**Public Comment**

**Lou DiMare, Tewksbury Township Committeeman** – Mr. DiMare expressed his heartfelt thanks to the Highlands Council and the entire Highlands staff. Mr. DiMare stated that the process in Tewksbury Township has been very open and contentious at times. Mr. DiMare is very pleased it has gotten to this point and commended the presentation given by Ms. Swan as being very thorough.

**Hank Klumpp, owns 150 acres in Tewksbury Township** – Mr. Klumpp stated that he enjoyed Ms. Swan's comments. He then read a statement which he submitted for the record.

Acting Chairman Schrier commented that the Highlands Council has initiatives to address landowner equity and have supported this since 2004. Mr. Klumpp stated that he just wants to be compensated and feels the Highlands Council should stand up to the Legislature on behalf of the landowners.

**David Peifer, Association of New Jersey Environmental Commission** - Mr. Peifer stated that he is a resident of Tewksbury in the historic district. He stated that it is very important that Tewksbury successfully conforms. It is a town at serious risk because it has a major highway clipping its southern border. Mr. Peifer feels the Council is giving the Township much better tools to preserve the community and since Tewksbury is in a state of flux, this is a way to increase the understanding and to protect what the residents have.

*Ms. Kovach left the meeting at 2:29pm.*

**David Shope owns property in Lebanon Township** - Mr. Shope commented that since Tewksbury is conforming in the Preservation and Planning Area, the residents in Tewksbury are in for a rude awakening once all the ordinances are put in place. Mr. Shope urges Council to vote no for the Planning Area for Tewksbury.



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**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey stated that she has been a resident of Tewksbury Township for thirteen years, served on environmental committee for ten years and urges the Council to vote yes to this Petition. Ms. Frey mentioned that the people who care about the town who are here today and they played a very important role in maintaining the beauty of Tewksbury. She recognized Basil and Rilda Hone. New Jersey Conservation Foundation was one of the first groups to help preserve lands in the town and is now working on the Hill and Dale Farm. She would be glad to see the historic element finalized, enlarged and completed. Ms. Frey would give all her support to any application Mr. Klumpp chooses to offer for farmland preservation, development rights or fee. Ms. Frey stated that New Jersey Conservation Foundation supports bonding of the funding that was authorized by the general public more than a year ago to continue the work of preservation in the Highlands.

Acting Chairman Schrier noted that the Farmland Preservation Program protects and preserves the farm as a farm, yet the farm owner continues to retain ownership or sell the property as a farm.

**Julia Somers, New Jersey Highlands Coalition** – Ms. Somers wanted to make a comment on Mr. Klumpp's comment that all the real estate value has been taken away from him. Mr. Somers noted that Hill and Dale property is under contract for purchase for \$40,000/per acre in Preservation Area. Ms. Somers furthers states that it is Mr. Klumpp's choice and that there are options to pursue.

**Basil Hone – resides at 18 King Street in Oldwick** – Mr. Hone strongly supports Plan Conformance to the Regional Master Plan and he appreciates the vital importance to keep water resources as pristine as possible. Mr. Hone hopes Council will vote in favor of Petition and welcomes Council support for sewer service issues. Mr. Hone stated that he appreciates the effect the state has had in terms of funding and has been a hard road for the farmers. Mr. Hone hopes the TDR system gets up and running. Mr. Hone commented that the Highlands Council staff has been most helpful and he appreciates their efforts.

**Mr. Klumpp, owns 150 acres in Tewksbury Township** – Mr. Klumpp stated that before the Highlands Act the zoning was 3 acre lots. Mr. Klumpp urges the Council to vote no and that farmers are in the minority and do not have a big voice in the township.

**Council Comment**

Mr. Holtaway made note that several months ago he and Ms. Swan went to a township committee meeting regarding the JCP&L proposed substation which Council deemed inconsistent. Mr. Holtaway wanted to express his disappointment that BPU granted JCP&L the approval to move forward with the substation. Mr. Holtaway is in favor of Tewksbury's Petition for Plan Conformance in the Planning and Preservation Area.

Ms. Swan acknowledged that James Humphries, Regional Planner was the Highlands Staff liaison for Tewksbury Township and recognized his work on this petition.

*All members present voted on the Resolution by roll call. The Resolution was APPROVED 8-0.*

At this time commemorative photos were taken as the Acting Chairman Schrier presented a framed certificate regarding the approval of the Plan Conformance Petition to Committeeman Lou DiMare.

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*A brief recess was taken and the meeting was reconvened at 2:56pm.*

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

Ms. Swan acknowledged that there was a large contingent in attendance at the hearing representing Rockaway Township: Gregory Poff, Administrator; Kevin Kain, Planner; Phyllis Hantman, Land Use Administrator; Edward J. Buzak, Township Attorney; and Pat Matarazzo, Chairman of Rockaway Township Environmental Commission.

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

- Incorporated: 1844
- Population: 25,454
- Land Area: 29,371 acres/45.8 sq. mi.
- Preserved Lands: 11,513 acres
- Wetlands: 3,203 acres
- Total Forest: 20,288 acres
- Farmland: 145 acres

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

- Preservation Area Lands: 17,789 acres – 61%
- Planning Area Lands: 11,582 acres – 39%
- Protection Zone – 23,244 acres – 79.1% (Roads 3.3%)
- Existing Community Zone – 5,144 acres – 17.5%
- Conservation Zone – 0 acres – 0%
- Highlands Open Water Protection – 16,629 acres – 56%
- Forest Resource Area – 25,951 acres – 88%
- Conservation Priority Areas – 10,985 acres – 37%
- Special Environmental Zone – 1,769 acres – 6.0%

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**Rockaway Township  
Background Statistics – Land Use**

<b>NJDEP Land Use/Land Cover</b>	<b>Plan</b>	<b>Pres</b>	<b>Percent</b>
Residential (Single & Multi Family)	2,236	1,194	11.7%
Commercial (Retail)	361	52	1.4%
Industrial & Transportation & Utilities	340	243	2.0%
Agriculture (Crops & Plantations)	28	124	0.5%
Recreational Lands (Public & Private)	185	163	1.2%
Military	727	0	2.5%
Extractive Mining	55	340	1.3%
Other Urban or Built-Up Land	490	91	2.0%
<b>Subtotal Developed Lands</b>	<b>4,422</b>	<b>2,207</b>	<b>22.6%</b>
Mixed Forest	4,923	11,955	57.5%
Shrub & Scrub	100	123	0.8%
Mixed Wetlands	1,436	1,767	10.9%
Barren Lands	73	21	0.3%
Water	628	1,715	8.0%
<b>Subtotal Natural Lands</b>	<b>7,160</b>	<b>15,582</b>	<b>77.4%</b>
<b>Total</b>	<b>11,582</b>	<b>17,789</b>	<b>100.0%</b>

Ms. Swan then showed a movie representing a ‘fly over’ of Rockaway Township. The movie offered an opportunity to focus on the landscape of the Township including its major infrastructure and natural resources. Ms. Swan showed ordinance maps for Rockaway Township and continued to provide an overview of the Petition of Plan Conformance and the administrative record for the Town as follows:

12/8/09	Petition for Plan Conformance Submitted
1/22/10	Petition Deemed Administratively Complete
2/1/10	Petition Posted to Highlands Council Website
8/17/10	Draft Consistency Report Sent to Municipality
12/15/10	Final Draft Report Posted to Highlands Council Website
1/18/11	End of Public Comment Period (Start 12/15/10)
2/10/11	Final Report Posted to Highlands Council Website
2/17/11	Highlands Council Public Hearing

Ms. Swan noted that the Rockaway Township had completed the required Module Submittals. The Highlands Municipal Build-Out Report for Rockaway 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 and a revised version was posted to the Highlands Council website on August 11, 2009. The Staff RMP Consistency Finding is that Rockaway Township’s Highlands Municipal Build-Out Report is consistent with the RMP.

With respect to Module 3, the Staff RMP Consistency Finding is that Rockaway Township’s Fair Share Plan and Housing Element is consistent with the RMP. Ms. Swan noted that the public



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comments would include additional Module 3 issues. With respect to the Environmental Resource Inventory, Module 4, the Staff RMP Consistency Finding is the Rockaway 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 Rockaway Township's Master Plan Highlands Element is consistent with the RMP. With respect to Module 6, the Staff RMP Consistency Finding is that Rockaway Township's Highlands Area Land Use Ordinance is consistent with the RMP.

Lastly, 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 Rockaway Township's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan then presented a summary of the public comments received and a summary of the responses given by Highlands staff for Rockaway Township Petition for Plan Conformance. The public comment period for Rockaway Township's Petition for Plan Conformance opened December 15, 2010, and closed January 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:

- Guliet D. Hirsch, Esq., Archer & Greiner, representing Pondview Estates; John T. Chadwick, IV, P.P., as submitted by Guliet Hirsch, Esq., on behalf of Pondview Estates; and Steven Firkser, Esq., Greenbaum, Rowe, Smith & Davis, representing Morris Commons.

Ms. Swan noted that no representatives are present at the meeting regarding the following comments and that the matters regarding these comments would not be repeated as they are on record and posted on the Highlands website and are reflected in these minutes accordingly.

Comments from Guliet D. Hirsch, Esq., Archer & Greiner, representing Pondview Estates and regarding the Fair Share Plan.

**Comment 1:** "Please be advised that Pondview Estates has not agreed to Alternative B, or to any reduction in the approved development capacity."

**Response:** The comment is noted. The matter is part of on-going litigation involving Pondview and the Township. The Highlands Council has reviewed both Alternatives and has determined both Alternatives are consistent with the Highlands Regional Master Plan for the purposes of an approval of Plan Conformance.

**Comment 2:** "The only question with regard to the Pondview Estates site is the source of the water supply for the affordable housing development." ... "Since the Law Division of Superior Court is presently overseeing the evaluation to determine the extent of public water available for the Pondview Estates site, this Council need not take any action in this regard other than to acknowledge, as it has done at page 10 of the Final Draft Report, that water supply options other than onsite wells exist --- and do not raise RMP consistency issues."

**Response:** The Highlands Council acknowledges that alternatives to the provision of water service to the site are involved in ongoing litigation between Pondview and the Township. At present, a Major Modification to Rockaway Township's Water Allocation Permit has been submitted to the NJDEP. The Permit application was deemed administratively incomplete, requiring several

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items including a consistency determination by the Highlands Council. As to the consistency of any other methods to supply water to the site, the Highlands Council cannot determine consistency until those other methods are presented to the Council. The Highlands Council has an obligation to take action on this matter in accordance with the requirements of Highlands Act, at N.J.S.A. 13:20-14 and 15, which require the Highlands Council to formally review Rockaway's revised master plan (and related land use documents), including the Housing Element and Fair Share Plan, and "approve, reject or approve with conditions" the municipal Petition for Plan Conformance. As Rockaway Township's Fair Share Plan and Housing Element included the Pondview Estates site, the Highlands Council examined whether this aspect of the Fair Share Plan and Housing Element was consistent with the Highlands Regional Master Plan.

Comments submitted by John T. Chadwick, IV, P.P., as submitted by Guliet Hirsch, Esq., on behalf of Pondview Estates. These comments are specific to the site reviews conducted for three sites included in the Township's Fair Share Plan: Villages at Rockaway, Commons Way 3.06 and Commons Way 3.07.

**Comment 1:** "The consistency reports for these three sites strongly conflict with the conclusion in Final Draft Report dated November 19, 2010, notwithstanding qualifying statements that the sites "do not appear to have significant consistency issues with the RMP." The conclusions are in direct conflict with the findings of these three sites contained within the RMP Consistency Report for each site and the Final Draft Report dated November 19, 2010 – Appendix B."

**Response:** As noted in the Highlands Council Final Draft Consistency Review Report: "The initial Highlands Council review indicated potential RMP consistency issues with a number of the proposed sites. After meeting with the municipality, it was determined that due to the status of approvals and existing infrastructure, the RMP consistency issues were not significant enough to prevent the developments, as proposed. At this time the projects as proposed shall be considered to be viable components of the Township's Fair Share Plan. If at any time during the Court's review of the Fair Share Plan or during any approval process for the individual sites it is determined that any of these projects are no longer viable, then the Township will be required to provide a revised Fair Share Plan for consideration."

Comments from Steven Firkser, Esq., Greenbaum, Rowe, Smith & Davis. Representing Morris Commons. Comments Regarding the Fair Share Plan, Specifically the Commons Way sites.

**Comment 1** "The Council's reference to a potential buffer issue affecting Commons Way 3.07 is easily resolved. Although part of the property is located in the Highlands Open Water buffer area, the portion of the property where development will occur was previously disturbed, and is therefore exempt from the buffer restriction..."

**Response:** The comment is noted. The Highlands Area Land Use Ordinance (section 6.2.5.H.2) provides for development within previously disturbed areas of Highlands Open Water Buffers in the Planning Area.

**Comment 2:** "Morris Commons, LLC presently has approvals on the Commons Way 3.06 and Commons Way 3.07 properties from the Township for an office/warehouse development consisting of three industrial buildings with associated parking. ... The proposed development for affordable housing is fully consistent with both the spirit and the letter of the RMP, and should be fully supported by the Council."

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**Response:** As noted in the Final Draft Consistency Review and Recommendations Report, it is agreed that the provision of infrastructure to the site would not require a consistency determination from the Highlands Council. The Council agrees that inclusion of the sites in the Fair Share Plan appears to be consistent with the RMP for purposes of Plan Conformance.

**Municipal Comments:** The Township has identified a proposed municipal park project located at Block 11101, Lot 44. The project has already received permits from the NJDEP. The project is located in the Planning Area. As a municipal project it is not required to receive approvals under the MLUL. The Township has requested clarification as to whether plan conformance may limit their ability to develop this project that has already been designed and received State approvals.

It is recommended that this approval of the Petition for Plan Conformance stipulate the advanced status of the project, and that as of the date of approval of the Township's petition for Plan Conformance, the project be deemed as having received approvals and therefore qualifies for exclusion from applicability of Highlands Council Consistency Determinations or any other impacts from the approval of Plan Conformance. Accordingly, the adoption of the plans and ordinances associated therewith shall not apply to this specific project.

Ms. Swan then summarized the Staff Recommendation for Rockaway 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 (Superior Court). This condition requires updates on Superior Court 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
  - Highlands Redevelopment Area Planning Program
  - Land Preservation & Stewardship Program
  - Septic System Management/Maintenance Plan
  - Right to Farm Ordinance
  - Lake Restoration Management Plan, Phase I Assessment
  - Sustainable Economic Development Plan

Ms. Swan noted the previous Highlands Protection Fund Grants for the Rockaway Township. Ms. Swan reported that Rockaway Township's Fair Share Planning Grant for the development of a Housing Element and Fair Share Plan and Initial Assessment Grant are complete.

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Ms. Swan then reported the future Highlands Protection Fund Grants for Rockaway Township:

- Highlands Implementation Plan and Schedule – Grant funding is proposed for the following:
  - Water Use and Conservation Management Plan for an additional subwatershed, with the Highlands Council serving as the lead for this project.
  - Highlands Redevelopment Area Planning. For review of areas in both the Planning and Preservation Area for potential Highlands Redevelopment Area designation.
  - Release of funding is conditioned upon approval of a scope of work by the Executive Director.
  - Sustainable Economic Development Plan. To evaluate existing economic conditions, conducting surveys and outreach, conducting Strengths, Weaknesses, Opportunities & Threats analysis, and developing a draft Implementation Strategy.
  - Lake Restoration Management Plan, Phase I Assessment. This project will help Rockaway Township and the Highlands Council determine priorities for the later development of Lake Management Plans.
  - Habitat and Conservation Management Plan. The Township will serve as lead for this project

*Mr. Richko made a motion on the Resolution for the Rockaway Township. Mr. Holtaway seconded it.*

Ms. Swan acknowledged James Humphries, Regional Planner and Highlands Staff Liaison for Rockaway Township. She noted that he is Highlands Council lead on issues relating to affordable housing.

Acting Chairman Schrier opened the public hearing on Rockaway Township's Petition for public comment on the proposed Resolution.

**Public Comment**

**Greg Poff – Rockaway Township Business Administrator** – Mr. Poff commented that it is a pleasure being here today on behalf of Mayor Sceusi who had a scheduling conflict. Mr. Poff commented that he is pleased to have Rockaway Township's Plan Conformance documents before Council today for consideration. Mr. Poff further stated that it has been a pleasure working with the Highlands Council staff and interfacing with his local staff, and although it has been a tremendous amount of work getting to this Plan Conformance process, Mr. Poff sees Plan Conformance as a new beginning moving forward now with actual implementation of those various and numerous items outlined today for Rockaway Township. Mr. Poff further stated that with the assistance of the Highlands Council staff and Rockaway Township's commitment, we are certain the township will continued to move forward through this process in a positive way to protect the valuable resources in Rockaway Township.

**Pat Matarazzo, Chair of Rockaway Township Environmental Commission** – Mr. Matarazzo commented that Rockaway Township has similar concerns as West Milford Township whereby we both have water that goes elsewhere and are under a water deficit. Mr. Matarazzo stated that it is a perfect time for a partnership to reconvene with management plans. Mr. Matarazzo further stated that it is a perfect time for a partnership with the state and would appreciate input from all



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municipalities. Mr. Matarazzo further stated that the reallocation process needs to be looked at and we appreciate the input of the Highlands Council staff in moving forward with that process.

Acting Chairman Schrier asked Mr. Poff if Morris County planning department is involved. Mr. Poff concurred that a member from Morris County is going to be a part of this group and a meeting is scheduled for February 25<sup>th</sup>.

**Helen Heinrich, New Jersey Farm Bureau** – Ms. Heinrich asked if there have been any discussions for potential TDR receiving areas to sell some development rights, in particular to the Rockaway Mall.

**Julia Somers, New Jersey Highlands Coalition** – Ms. Somers apologizes for the omission of their comment and reported that the New Jersey Highlands Coalition strongly supports and commends Rockaway Township's Petition for Plan Conformance. Ms. Somers reported that it is a very important step for Rockaway Township to help them with some of their issues to move forward.

**Wilma Frey, New Jersey Conservation Foundation** – Ms. Frey endorses Ms. Somers' comments.

**David Shope, owns property in Lebanon Township** - Mr. Shope asked how Council can keep a straight face when there are communities that ship water elsewhere and are in a water deficit

*All members present voted on the Resolution by roll call. The Resolution was APPROVED 8-0.*

At this time commemorative photos were taken as the Acting Chairman Schrier presented a framed certificate regarding the approval of the Plan Conformance Petition to Rockaway Township Business Administrator Greg Poff.

*Mr. Visioli left the meeting at 3:25pm.*

**Public Comments**

**Len Fariello, Wildlife Preserves, Inc.** – Mr. Fariello read a statement on the Highlands Municipal Build-Out report for Parsippany-Troy Hills where he addressed concerns with how lands owned by Wildlife Preserves are treated. He submitted the report to the Council for the record.

Mr. Fariello expressed support with the Regional Master Plan and the Highlands Act. Mr. Borden commented that Mr. Fariello's report will be researched and addressed.

**Hank Klumpp owns 150 acres in Tewksbury Township** – Mr. Klumpp read a letter he received from Governor Christie dated February 4, 2011. The letter was submitted to Council for the record. Mr. Klumpp commented that he would be happy to attend meetings with Highlands Council staff as a lobbyist on behalf of the landowners.

**David Shope, owns property in Lebanon Township** – Mr. Shope made a suggestion to send Highlands Act to Legislature to examine monetary issues/TDR - \$7 million short and running out of money. Mr. Shope submitted a letter he sent to the newspapers.

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*Mr. Cogger made a motion to adjourn the meeting. Ms. Letts seconded it. The meeting was adjourned at 3:45pm.*

**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: 3/17/11

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 Cogger			✓			
Councilmember Francis			✓			
Councilmember Holtaway			✓			
Councilmember Kovach			✓			
Councilmember Letts	✓		✓			
Councilmember Richko			✓			
Councilmember Vetrano						✓
Councilmember Visioli		✓	✓			
Acting Chairman Schrier			✓			

## PUBLIC COMMENTS

To The Editor:

The Highlands Act was premised on the notion that it was necessary to ensure the supply of cheap and plentiful water to the urban area of the state. Just compensation to landowners and farmers was promised when it became law in 2004. I am proposing one small revenue source towards the \$15 billion in lost equity. This \$15 Billion figure comes from Warren County's expert reports on the effects of the Highlands Act.

The New Jersey Water Supply Authority (N.J.W.S.A.) is a state agency. Its function is to provide water at cost to its customer's. Its biggest customers are New Jersey American Water Co. and Middlesex Water Co. They are "for profit" companies. It currently sells water at \$231/per million gallons (mg.) in the Raritan System. Of that, \$8 per mg. goes towards watershed land acquisition.

I am proposing an additional \$50 per mg. to be used exclusively for highlands landowner compensation. This money should be collected from the consumers the same as other fees are collected by vendors on behalf of the state.

The N.J.D.E.P. has determined the average water consumption, per person, per year, to be almost 23,000 gallons. This means the Yearly cost per person for land preservation is 18 cents. Raising the land preservation part of the N.J.W.S.A.'s costs another \$50 per mg. would mean an additional yearly cost of \$1.14, for a total of \$1.32 per year. This total for land protection of \$58 per mg. would raise about \$3.85 million annually.

\$3.85 million is not that much money when compared to the \$15 billion in lost equity as a result of the Highlands Act. However, it could be a meaningful beginning towards honoring the promises made by the state. This plan along with other compensation mechanisms – none of which are now developed or functional, could start the process of re-establishing trust between this state's government, and it's Highlands farmers and landowners.

The NJWSA is currently going through its annual rate review process. For those that may endorse this proposal, please provide your written comments by March 11 to: Henry S. Patterson, Executive Director, New Jersey Water Supply Authority, 1851 Highway 31, P.O. Box 5196, Clinton, NJ 08809 or e-mail: [hpatterson@njwsa.org](mailto:hpatterson@njwsa.org)

David Shope



# Official's estate at c

By P.C. ROBINSON  
Staff Writer

7-0-06

**BERNARDSVILLE** - With its bucolic hills, pristine pond and menagerie of sheep, pigs and poultry, a borough estate once owned by a prominent national Republican is again in the local spotlight.

The Planning Board on Thursday, March 23, began a public hearing to consider a subdivision proposal by Borough Councilman Mikael Salovaara and spouse Beth Stewart Salovaara. The couple want to subdivide their 61-acre estate at 170 Dryden Road into six, 10-acre residential lots.

The property is the former estate of the late Bernard M. Shanley, a prominent attorney and former aide to President Dwight D. Eisenhower. Mr. Shanley died at the age of 88 on Feb. 25, 1992. The Salovaaras purchased the estate from the Shanley family and took up residence in July 1993.

On Thursday, the Salovaaras, accompanied by attorney Christopher Falcon and planning engineer Eric Keller, assured the board the proposal is for the sole purpose of "dealing with mortality." The couple has five children between the ages of 8 and 17.

Mikael Salovaara, who has aspirations of succeeding Jay Parsons as mayor, stressed that the homes would not be built for some time.

"We have no present interest to do anything with the property," he said. "This is driven by mortality concerns."

Not that the 52-year-old Salovaara, a retired Goldman Sachs investment executive, planned on seeking eternal retirement soon.

"It's my intention to die on this property in 2040, but there are some nights I feel I'm going to die sooner," he quipped.

The board is scheduled to resume the hearing at 7:30 p.m. Thursday, April 20. The date is tentative, however, because some planners failed to bring their calendars to last Thursday's meeting.

The scheduling prompted a light-hearted rhetorical question from Borough Planner P. David Zimmerman.

"I hate to be glib about this, but if the property won't be developed soon, what's the hurry?" he asked.

## Six Lots Sought

The application presented to planners was fairly extensive.

The property consists of 58.13 acres in Bernardsville and 2.84 acres in Mendham Borough. It is bordered by the Ramoths Golf Club in Mendham to the north and single-family estates to the south, east and west. The acreage in Bernardsville is zoned for 10-acre single-family homes.

The Salovaaras want to subdivide the property into six lots, each averaging 439,675 square feet, and eventually build 8,500-square-foot homes on five of them, according to Keller. The sixth lot would contain the family's existing two-story, 8,500-square foot home, the primary barn, an in-ground swimming pool, studio and garage.

Multiple variances are required, including one for a lot on the Bernardsville/Mendham border whose 7.25 acres in Bernardsville would fall short of the 10-acre minimum required. With an additional 2.84 acres in Mendham, though, it would be slightly larger than the minimum.

Additional variances are needed to retain existing farm sheds and structures, some of which would lie on the front lawns of certain lots; for setbacks that fail to meet the town's 40-foot minimum requirement for lot lines; and for setbacks that fail to meet the town's 10-foot requirement along a 900-foot long common driveway that will cross individual property lines.

The Salovaaras also seek approval for septic systems for the individual lots, and a centrally located 30,000-gallon cistern to be used as an emergency water source.

Aside from a few technical questions concerning a timetable for soil testing, board members



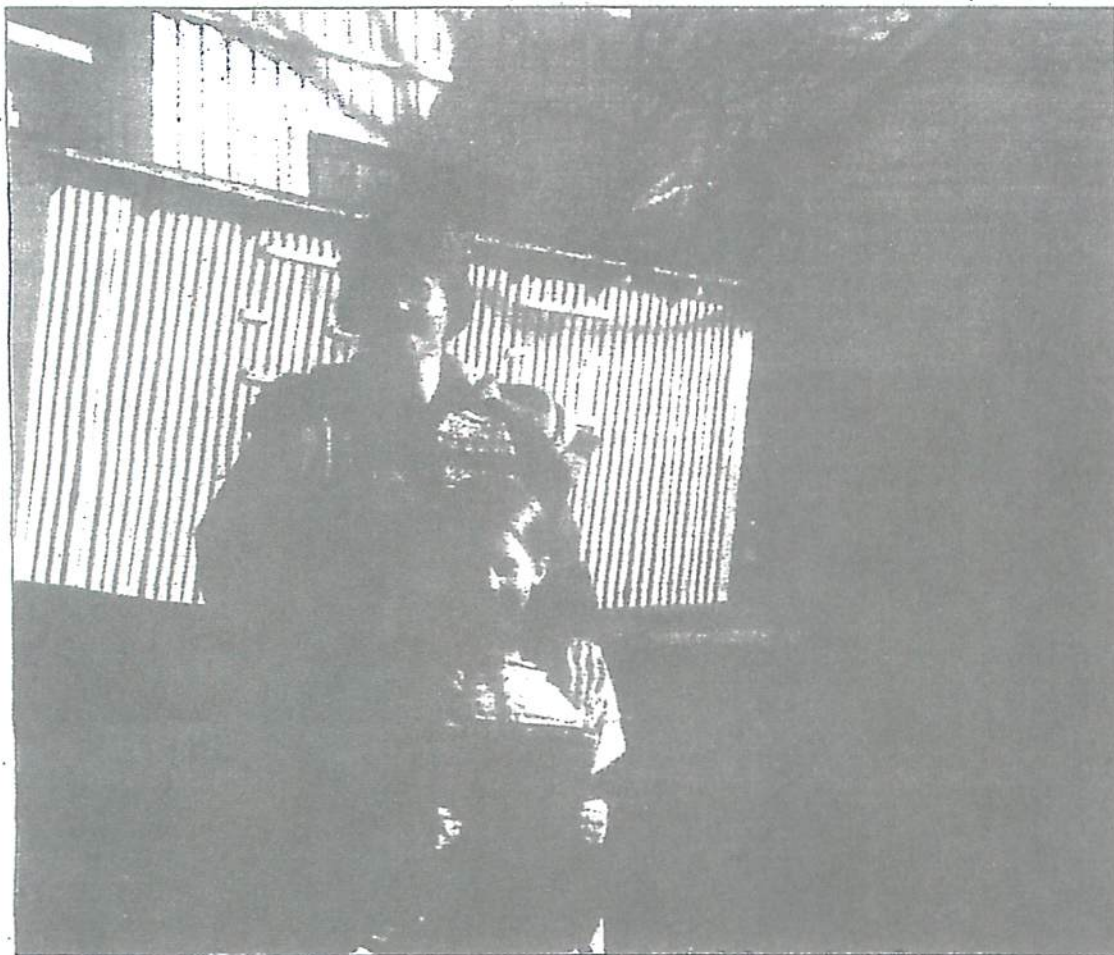
(Photo by P.C. Robinson)

## Eyes For Ewe

Daisy, held by groundskeeper Leslie Joseph, eyes Priscilla Salovaara during a visit to the Salovaara family's 61-acre Dryden Road estate in Bernardsville on Thursday, March 23. Borough Councilman Mikael Salovaara and wife, Beth, want to subdivide the property into six lots for estate planning purposes. Please see story on page 5.



# enter of B'ville subdivision hearing



(Photo by P.G. Robinson)

## All In The Family

Beth Salovaara, left, and daughter, Priscilla, visits the family's poultry stock on their Dryden Road estate in Bernardsville on Thursday, March 23. Salovaara and her husband, Borough Councilman Mikael Salovaara, want to subdivide the property into six lots for estate planning purposes. The estate was the home of the late lawyer and Eisenhower aide, Bernard M. Shanley.

expressed few concerns about the proposal.

Board member Robert Graham, however, did inquire about the proposed common driveway.

He asked whether the drive would encroach upon and disturb the property's pond. The pond, whose waters feed into the north branch of the Raritan River, are classed as Category 1 trout production waters, the state's highest freshwater classification.

Falcon said it would not.

Graham also asked whether a plan for maintaining the common

road could be a condition for the board's approval.

Falcon said that would be acceptable.

## Sheep Tossed In

The estate's prior owner, Mr. Shanley, served as President Eisenhower's special counsel, appointment secretary and deputy chief of staff for five years.

He was the co-founder of the Morristown law firm Shanley and Fisher. A former owner of Roxiticus, he twice ran unsuccessfully for U.S. Senate and was a Republican

national committeemen until only weeks before his death. Today the property features a working farm set amid a quiet, untouched countryside. Included is the family home, a brick Georgian mansion built in 1936. The Shanley family had dubbed the estate "Winton."

Beth Salovaara explained that she and her husband got a crash course on raising livestock when purchasing the estate as the sheep were included in the deal.

"They said, 'Oh, we're throwing in the sheep,'" she said. "Rather than send them off, we kept them."

Salovaara said with a lot of help from veterinarian Erno Hollo of Claremont Road, they learned how to raise the animals.

They're still raising them. Last week, the flock totaled 11 adults and 11 little lambs, including Daisy, a four-week old ewe whose mother and twin siblings died in the lambing process.

Beth Salovaara said raising the little creature was left to the tender care of groundskeeper Leslie Joseph. Thanks to Joseph's diligence with a milk bottle, Daisy has now bonded with both he and the family. During last Thursday's visit, she frolicked, butted and followed the humans like a puppy.

Besides Daisy and the other sheep, the farmstead inventory includes four pigs, several chickens and roosters, a ring-necked pheasant, and one very proud male turkey who was proudly fanning his tail despite the absence of interested hens.

According to borough tax records, the four acres that include the Salovaaras' existing residence have a net taxable value of \$3.1 million. In 2004, they paid \$42,763 in property taxes for that part of the property. At present, 54.13 acres are farmland assessed with a net taxable value of \$15,000. In 2004, the couple paid \$238.50 in taxes on those acres.

The state Farmland Assessment Act has been a political bone of contention in the borough for a number of years. Some residents said the state act is being abused to provide tax breaks to the affluent. But proponents claim farmland assessment helps preserve undeveloped land and protects the environment.

Now in the second year of his second, three-year council term, Mikael Salovaara has expressed interest in seeking the Republican Municipal Committee's backing to run for mayor. Mayor Parsons has announced he will not seek reelection when his term expires at the end of December.





Comments submitted at Highlands Council Meeting  
on February 17, 2011 by Hank Klumpp.  
Page 1 of 5

**State of New Jersey**

OFFICE OF THE GOVERNOR  
PO Box 001  
TRENTON, NJ 08625-0001

CHRIS CHRISTIE  
Governor

February 4, 2011

Mr. Hank Klumpp  
24 Longview Road  
Lebanon, NJ 08833

Dear Mr. Klumpp:

Thank you for writing to express your concerns about the Highlands Water Protection and Planning Act. I also enjoyed speaking with you in Clinton at the town hall. I appreciate hearing your thoughts on the issue.

As I stated to you, I fully appreciate the importance of the Highlands Region and the need to preserve and protect our water supply. As you know, the Act was signed in 2004 both to preserve New Jersey's open space and protect our drinking water – however, promises made during the execution of the Act simply were not kept to the residents of the region. I sympathize with you and the many others whose property rights were taken from them and who have yet to receive the compensation they were promised.

We need to reach a system in which property owners are either justly compensated or given back the property rights with which they were entitled before the Act. Please be assured that I have recently presented new nominees to the Highlands Council who share our vision and will work to pursue the intent and promise of the Highlands Act. We're working every single day to reform our government and right the wrongs of yesteryear and this area is no exception.

Again, thank you for writing on this issue. Best wishes.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Christie".

Chris Christie  
Governor

January 31, 2011

(i)

## Highlands Water Protection and Planning Council

Comments submitted at Highlands Council Meeting  
on February 17, 2011 by Hank Klumpp.  
Page 2 of 5

Tewksbury was not part of the Highlands original map. Overnight the boundaries were changed. The choice was never scientific - it was all political. I have been asking now for almost seven years to see the scientific study that put my property into the Highlands Preservation Area and still have not been shown. The town changed the zoning from 3 acres to 12 acres to stop development and then the Highlands Act came along and disguised itself as a "water-saver" while all along it was a "land-grab." Why is there nothing on record that shows any township meetings or any resolutions to adopt the Highlands Act?

Farmers are now being punished for keeping their beautiful land over the many generations. They are being punished by the loss of equity. The 13,475 acres of land now in the Highlands Preservation, in Tewksbury, is the land everyone - who is living on only a building lot - loves enjoying -



②

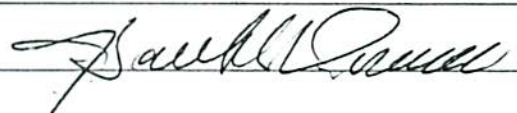
with the views and beauty. Farmers have been stewards of this land for many generations. Farmlands are family investments. With all real estate values taken away, what does the farmer do when he can't farm anymore? How can a township turn its back on people who have invested a lifetime in land that has had its real estate value taken by an Act that was never to harm anyone and yet passed without one cent in place to compensate people for their losses. How can a township allow this to happen? If you haven't owned a farm for generations, you just do not care or understand. People around the corner from my farm never even heard of the Highlands Act. Why? It does not affect them.

The state, for going on seven years, has not lived up to the obligation to find a dedicated funding source to compensate the landowners for the land values taken for the Highlands Act. When someone takes something that belongs to another without agreement or compensation it is known as a theft. Is there a difference because the

③

state is doing the taking? Is it morally right for the many to take from the few?

The state must first compensate the affected property owners before it can exercise the rights it now claims to the property it has stolen. Presently, Tewksbury Township and the Highlands Council are accessories to theft.



Hank Klumpp

24 Longview Road  
Lebanon, N.J. 08833



Things seem to be rushed through like a freight train — politics at work

Have these issues been addressed?

① Equity — where does it stand?

② Mandatory Septic Testing

③ Forest Management Programs-

How will a forest management program that has been in place for over 40 years be treated? Will this property be exempt from further management programs by the Highlands Act?

These questions go on unanswered — they are a nightmare for people who are being taken advantage of.



**WILDLIFE PRESERVES, INC.**

One Gateway Center, Suite 2500  
Newark, New Jersey 07102

DEDICATED TO THE PRESERVATION OF NATURAL AREAS, WILDLIFE, AND WILDLIFE HABITATS

February 17, 2011

New Jersey Highlands Council  
100 North Road  
Chester, New Jersey 07930

Re: Preliminary Comment of Wildlife Preserves, Inc. regarding the Parsippany-Troy Hills  
Township Highlands Plan Conformance — Build out Report

**Dear Highlands Council and Staff:**

Wildlife Preserves, Inc. (Wildlife) owns some 1,355 acres of land in the Township of Parsippany-Troy Hills, located in Troy Meadows, in the Highlands Planning Area—Protection Zone.

In general, large landowners— such as Wildlife Preserves— should have been consulted during the preparation of the Highlands Plan Conformance and Build out Report. For a township to prepare and submit a Plan Conformance and Build-Out Report without notifying affected property owners to view and comment at a public hearing is not reasonable.

The Parsippany-Troy Hills Highlands Plan Conformance — Build out Report is inaccurate and needs to be corrected. The report partially deals with the Troy Meadows area of the Township lying to the East of Beverwyck Road. It divides all the land there into two groups strictly based on ownership. One group consists of all the land owned by Wildlife, the State of New Jersey and other government agencies — and all of this land is rated as unbuildable “Environmentally Constrained Lands” with no “Potentially developable Lots.” The other group consists of all other privately owned land— and all of this land is shown as “Environmentally Constrained Lands” with “Potentially developable Lots”— regardless of physical conditions, wetlands, etc. Apparently this is based on two assumptions— first that all of this land is preserved land and second that all of it is environmentally constrained. Both are factually wrong.

First, the lands of Wildlife are NOT preserved lands. Wildlife’s land is privately owned. Wildlife is a private, nonprofit conservation corporation; its lands were purchased with private donations, without grants, without Green Acres funding or without any sort of tax dollars; it gave no deeds, it gave no promises, and it has no preservation easements or restrictions upon its lands. WP’s land cannot be considered preserved, unless it is acquired in fee or by easement or by the purchase of development rights through the Highlands TDR program.

Wildlife began purchasing its land in Troy Meadows in 1952, long before any flood control or wetlands regulations existed. During the early 1960s and ’70 administrations of Parsippany, the Township was often at odds with Wildlife because it viewed Wildlife as an obstruction to its proposals for economic development.

Against all odds Wildlife retained and protected most of its land in Troy Meadows, except that it has become diminished and degraded by numerous condemnations— including Route 80, Route 280, the Route 280 Access Road, the Route 80/280 Interchange, three high pressure gas pipelines, three electric transmission lines, and Parsippany sewer lines, water lines, pump



**Wildlife Preserves Par-Troy Highlands Plan Conformance February 17, 2011 page 2**

stations, wells, etc. Also Wildlife sold 40 acres of land in Parsippany to the State of New Jersey as a natural area and sanctuary and donated at –no cost– over 60 acres of land for preservation as a sanctuary and natural area.

While it is true that all of Wildlife's land is open to the public, it is not permanently preserved. Accordingly, most all of it has 15F tax exempt status, because Wildlife's land is enrolled in the New Jersey Green Acres Tax Exempt program, which conveys no ownership rights and is temporary (needing to be renewed every three years). If any portion of this land is sold or developed, it would be subject to roll-back taxes. It is also true that for several decades Wildlife paid full municipal taxes on its land.

The second assumption—that ALL of Wildlife's land is environmentally constrained is not based on facts on the ground, but on ownership and lot lines. Wildlife owns many areas of land in Troy Meadows that are NOT "Environmentally Constrained Lands," many lots that were previously cleared, filled, farmed, and disturbed; some lots that were subdivided and some that are located and surrounded by residential developments. Lands that are disturbed, lots that have been previously subdivided, and lands that have development potential should NOT be regarded as "Environmental Constrained Lands." The Highlands map layers reveal many acres of Wildlife property that are upland areas outside of the state wetlands mapping. Although much of Troy Meadows are meadowlands, Wildlife owns several upland areas within neighborhoods and along roadways that are well above the floodplain and wetlands— some areas are even located up on hills and hillsides. Wildlife also owns a legally approved and recorded 11-lot subdivision (that predates the NJ Freshwater Wetland Protection Act) that was improperly merged by the Township.

While WP has no plans to develop its land, however, by listing all its landholdings in Troy Meadows as "Environmental Constrained Lands" with NO "Potential Developable Lots" is inaccurate and diminishes the value of its land holdings and makes it easier for condemning authorities to take land for utilities, power/pipelines, highways, roads, etc.

Troy Meadows has already been greatly damaged by multiple construction activities as a result of condemnation. Two condemning agencies have openly admitted that the nearly free land they took from Wildlife was a major incentive for choosing Wildlife's land over other properties. Listing Wildlife's land with NO "Potential Developable Lots" only perpetuates the likelihood of further takings and reduces the chances that it will ever be available for permanent preservation.

Some of Wildlife's land has been assessed for future sewerage capacity and some Wildlife land is improved with sewerage pipelines running through its property— areas in the Par-Troy Sewerage Service Area include WP's lands in the vicinity of Alan Drive, Bennett Court, Marsha Terrace, Troy Meadow Road, Brookside Court, and land fronting on south Beverwyck Road.

Thank you for considering Wildlife Preserves' comments. If you have any questions or concerns regarding these comments, please feel free to contact Len Fariello, project coordinator for Wildlife Preserves at 973-539-5355.

**WILDLIFE PRESERVES, INC.**



**WILDLIFE PRESERVES, INC.**

One Gateway Center, Suite 2500  
Newark, New Jersey 07102

DEDICATED TO THE PRESERVATION OF NATURAL AREAS, WILDLIFE, AND WILDLIFE HABITATS

**Morris County Office**

336 Whippany Road, Whippany, NJ 07981

973- 539-5355 Fax: 973-539-4477

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**February 17, 2011**

**Comment of Wildlife Preserves, Inc.**

**Re: Parsippany-Troy Hills Township Highlands Plan Conformance — Build out Report**

Wildlife Preserves, Inc. (WP) offers the following comments regarding the Parsippany-Troy Hills Township Highlands Plan Conformance—Build out Report, dated July 2009—

1. WP owns some 1,355 acres of land in the Township of Parsippany-Troy Hills, located in Troy Meadows, in the Highlands Planning Area—Protection Zone.
2. WP began purchasing its land in Troy Meadows in 1952, long before any flood control or wetlands regulations existed. During the early 1960s and '70 administrations of Parsippany, the Township was often at odds with WP because it viewed WP as an obstruction to progress and economic development.

Against all odds WP retained and protected most of its land in Troy Meadows, except that it has become diminished and degraded by numerous condemnations— including Route 80, Route 280, the Route 280 Access Road, the Route 80/280 Interchange, three high pressure gas pipelines, three electric transmission lines, and Parsippany sewer lines, water lines, pump stations and wells, etc. Also WP sold and also donated—at no cost— some of its land in Parsippany to the State of New Jersey for preservation as a natural area and wildlife sanctuary.

3. As a large landholder in Parsippany-Troy Hills— WP should have been consulted in the preparation of the Highlands Plan Conformance and Build out Report.

4. For the Township to prepare and submit the Plan Conformance and Build-Out Reports and the Highlands Council to accept the Plan Conformance and Build-Out Reports without notifying affected property owners to view and comment at a public hearing is not proper.

5. The Highlands Plan Conformance—Build out Report erroneously illustrates ALL the land owned by WP as “Environmentally Constrained Lands” — and NO lots owned by WP as “Potential Developable Lots.” This is a general assumption and factually incorrect.

6. It is inaccurate to illustrate “Potential Developable Lots” and “Environmentally Constrained Lands” by lot lines and lot ownership. These criteria should be based on science, not political boundary lines or tax data.

*Continued next page—*



7. In Troy Meadows— the criteria apparently used to determine “Potential Developable Lots” is strictly based on ownership. All of WP’s vacant, private lots are illustrated as undevelopable, while all other private vacant lots (*many located in deep water with flood and wetland constraints*) are illustrated as developable!

Certainly lots exist that are environmentally constrained or potentially developable; however there are also large vacant lots that are both. It is inaccurate to simply label entire lots as either one or the other. The designation “Potentially Developable Lots,” should be changed to “Potentially Developable Lands” and the designations should follow scientific boundaries, not lot line boundary.

Determining development potential simply by lot boundaries or ownership is not accurate. The Build-Out Report is flawed and needs to be corrected.

8. WP’s land is privately owned and NOT permanently preserved.

- a) WP is a private, nonprofit conservation corporation. Its lands were purchased with private donations, without grants, without Green Acres funding or without tax dollars; it gave no deeds, it gave no promises, it has no preservation easements or restrictions upon its lands and its lands are NOT permanently preserved. (WP’s land cannot be considered preserved, unless it is acquired in fee or by easement for preservation or WP is compensated for its development rights (through the Highlands TDR program).
- b) For several decades WP paid full municipal property taxes. WP currently provides a public benefit in exchange for exempt status pursuant to N.J.S.A. 54:4-3.63 et seq. WP land is classified with 15F tax status — open to the public but not permanently preserved. The current 15F tax status is temporary preservation — the Green Acres Tax Exempt program conveys no ownership rights, it is a three-year program that must be renewed and approved every three years.

9. WP owns lots and part of lots in Troy Meadows that are not “environmentally constrained lands” and that are “potential developable lots.”

- a) WP owns many areas of land in Troy Meadows that are NOT “Environmentally Constrained Lands”— many lots that were previously cleared, filled, farmed, and disturbed; some lots that were subdivided and some that are located and surrounded by residential developments.
- b) Lands that are disturbed, lots that have been previously subdivided, and lands that have development potential should NOT be included as “Environmental Constrained Lands.”
- c) The Highlands map layers reveal many acres of WP property are upland areas outside of the state wetlands mapping. Although much of Troy Meadows are meadowlands, WP owns several upland areas within neighborhoods and along roadways that are well above the floodplain and wetlands (some areas are even located up on hills and hillsides).

*Continued next page—*

10. WP has no plans to develop its land, however, by listing all its landholdings in Troy Meadows as “Environmental Constrained Lands” with NO “Potential Developable Lots” is inaccurate and diminishes the value of its land holdings and makes it easier for condemning authorities to take land for utilities, power/pipelines, highways, roads, etc.

Troy Meadows has already been greatly damaged by multiple construction activities as a result of condemnation. Two condemning agencies have openly admitted that the nearly free land they took from WP was a major incentive for choosing WP’s land over other properties. Listing WP’s land with NO “Potential Developable Lots” only perpetuates the likelihood of further takings and reduces the chances that the land will ever be available for permanent preservation.

11. Some of WP land is assessable to the Par-Troy wastewater sewerage system.

- a) WP was forced to pay sewerage assessments for future sewerage capacity and connections when a sewer line was installed along WP’s upland road frontage on S. Beverwyck Road to service several large housing developments that were built there.
- b) Some of WP land is improved with Par-Troy sewerage pipelines running through its property, especially in the vicinity of Alan Drive, Bennett Court, Marsha Terrace, Troy Meadow Road, and Brookside Court.

12. A NJ DEP Letter of Interpretation (LOI) is the only true, legal criteria that can be used to differentiate between potential developable and unbuildable lands.

WP recently surveyed its land with the intention of subdividing its land to delineate its wetlands and uplands.

13. WP owns a legally approved and recorded 11-lot subdivision (that predates the NJ Freshwater Wetland Protection Act). It was improperly merged by the Township—and WP is attempting to correct the improper merger.

14. WP commented at the Highlands Master Plan public hearings and expressed its support for the Highlands Act with the condition that private property owners receive compensation for the development rights of their land to compensate for the loss of property values.

**Len Fariello**  
[LFariello@aol.com](mailto:LFariello@aol.com)

**WILDLIFE PRESERVES, INC.**





# Highlands Council Meeting

February 17, 2011



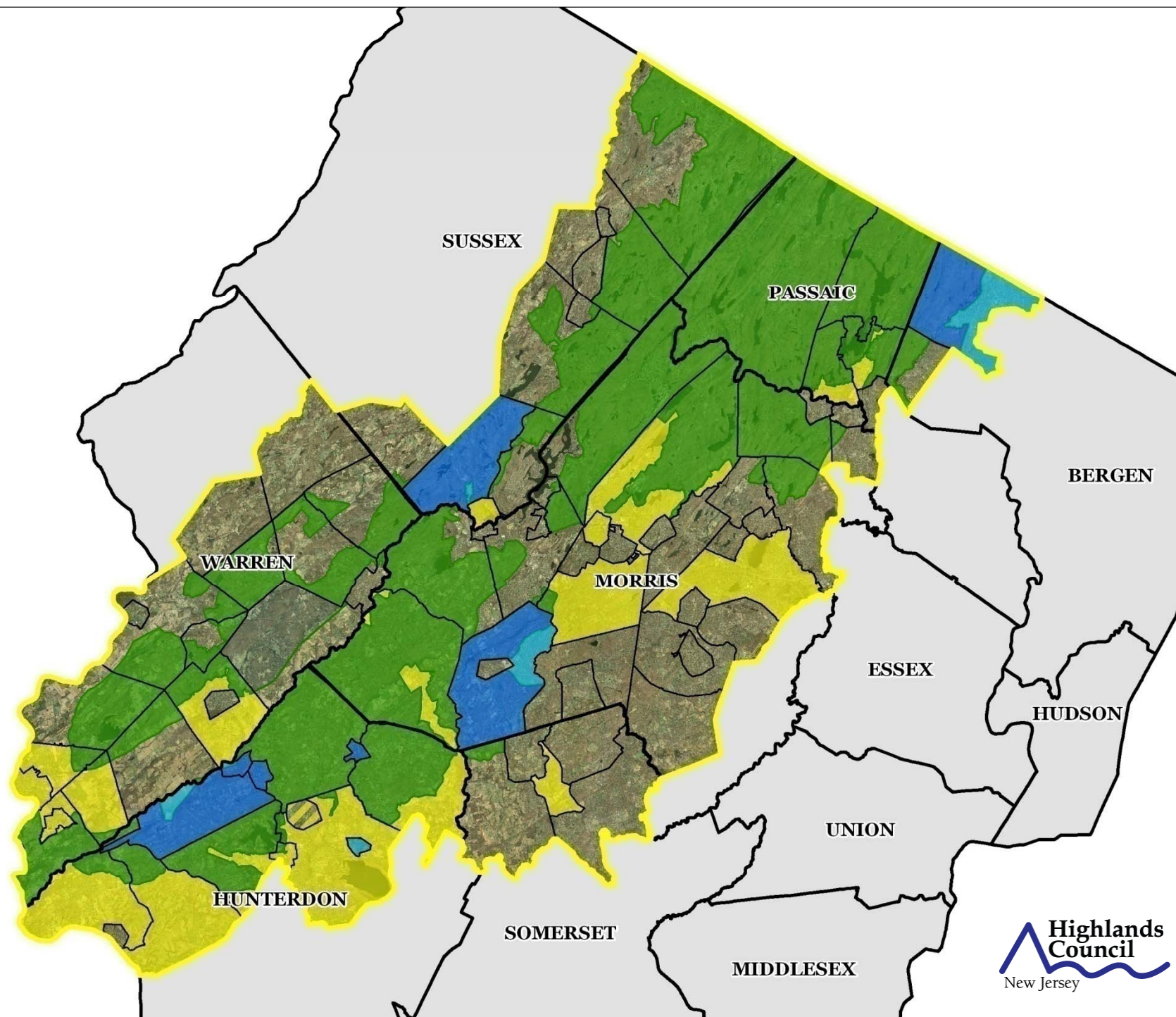


# Plan Conformance Update

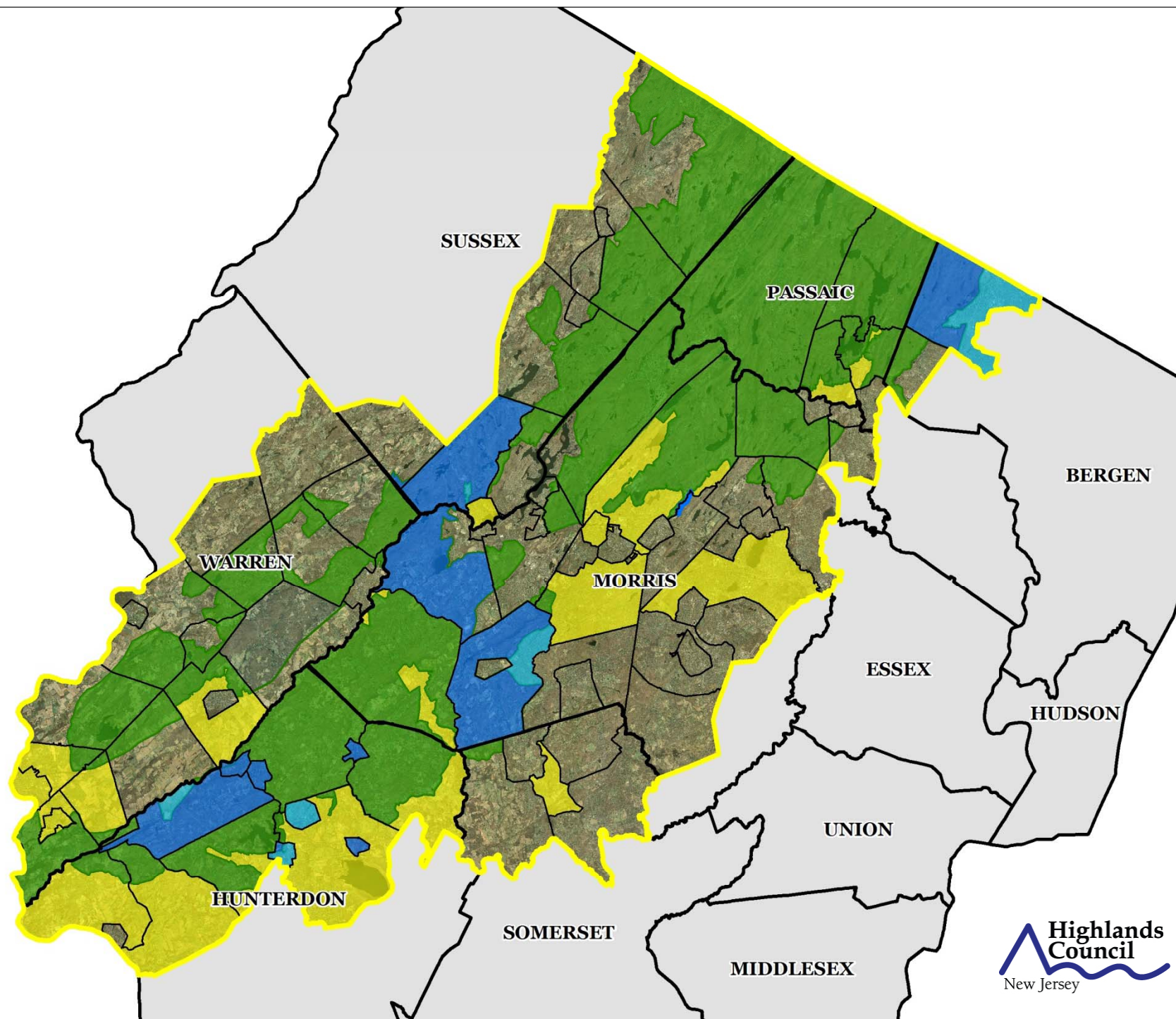
# Plan Conformance Update

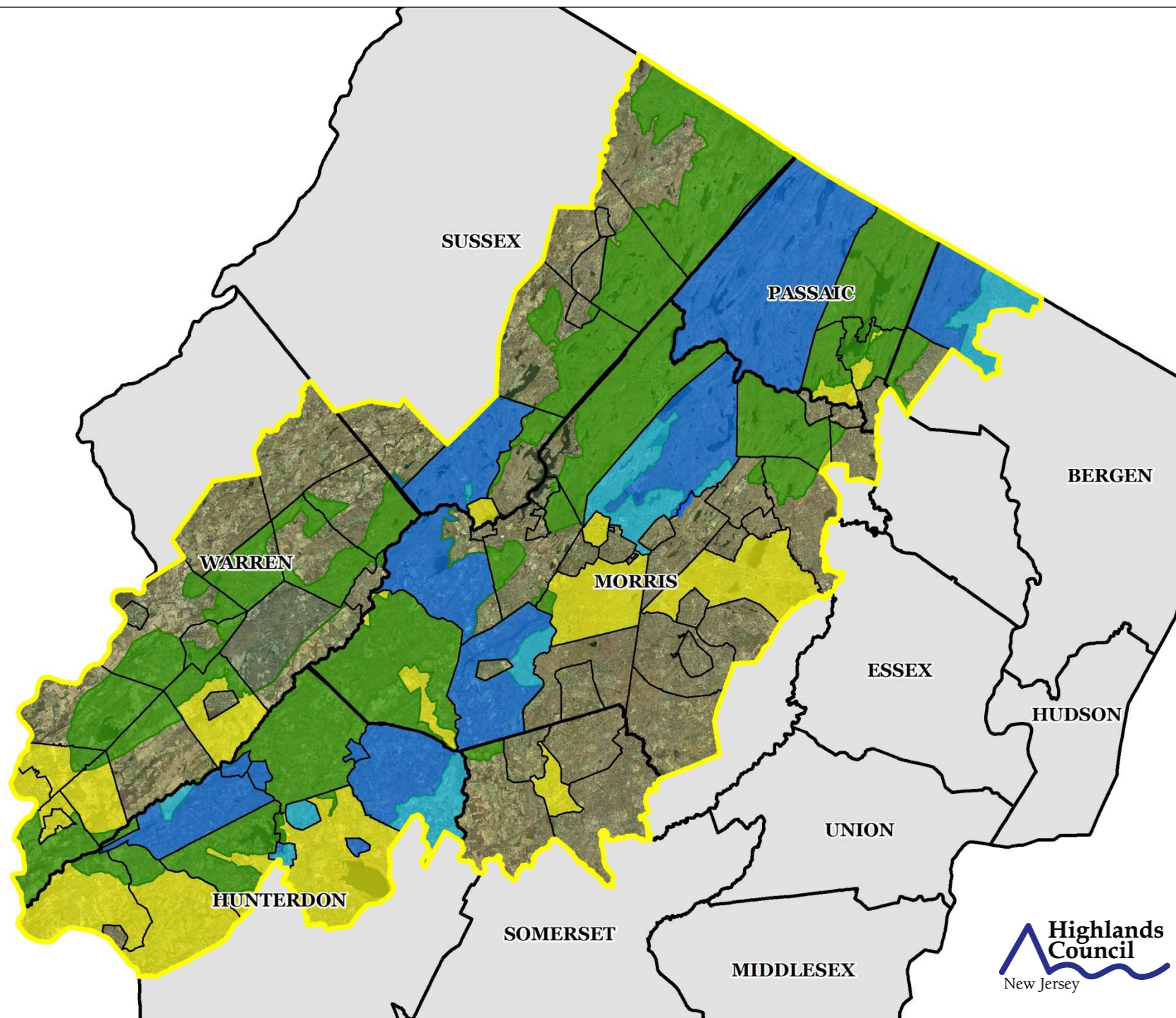
Petitions Submitted: 64 (59 Municipalities and 5 Counties). Of these, 51 have been deemed Administratively Complete & posted to the Highlands Council website (including 2 Counties). Of these:

- Petitions Approved (14): Townships – Bethlehem, Byram, Chester, Denville, Green, Mahwah, & Mount Olive; Boroughs – Califon, Glen Gardner, Hampton, High Bridge & Lebanon; Towns – Clinton; and Passaic County
- Today's Meeting (3): Rockaway Township, Tewksbury Township, West Milford Township.
- Municipal Response Period Underway (7): Townships - Franklin, Holland, Parsippany-Troy Hills, and Washington (Morris); Boroughs - Kinnelon, and Bloomingdale.
- 13 additional Draft Consistency Reports prepared and under internal review; another 11 are in development by Staff.











## Plan Conformance Update

**Plan Conformance Grant Program:** Following are the average amounts requested for reimbursement by municipalities that are participating in Plan Conformance grant activities.

<u>Towns</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,728	71
Module 2	\$10,000	\$ 6,720	68
Module 3	\$ 7,500	\$13,816	53
Module 4	\$ 2,000	\$ 3,214	58
Module 5	\$ 2,500	\$ 6,118	51
Module 6	\$ 5,000	\$ 4,381	48
Module 7	<u>\$ 8,000</u>	<u>\$ 6,870</u>	45
<b>Total</b>	<b>\$50,000</b>	<b>\$54,847</b>	



# TDR Program Update

# TDR Program Update

- **Third Round** of HDC Acquisition Consideration to be held during HDC Bank meeting on **April 7, 2011**:
  - Two new categories under consideration:
    - Parcels of Land that received Exemption #3, but that exemption has since expired; and
    - Special Environmental Zone Lands and High Value Agricultural Priority Lands, where property has been offered for preservation purposes since August 10, 2004, but property did not qualify for a preservation program administered by a public entity.
  - Applications will be accepted through **February 24, 2011**. To encourage participation, **over 250 letters** were sent to property owners with lands identified in either the Special Environmental Zone or High Value Agricultural Priority Area:
    - To date, we have received 11 applications and have responded to over 30 calls from property owners in response to letters.

# TDR Program Update

## Status of Second Round of HDC Acquisition Consideration:

- Four property owners received offers from the HDC Bank to acquire the HDCs allocated to their properties; to date, 3 of the offers have been accepted and the fourth is pending;
- In total, HDC Bank has offered to acquire 54.5 HDCs valued at \$872,000 through the second round. If all offers are accepted and close, another 83 acres in the Preservation Area will be permanently protected.



# Public Hearing

## West Milford Township Petition for Plan Conformance

# Introduction to West Milford





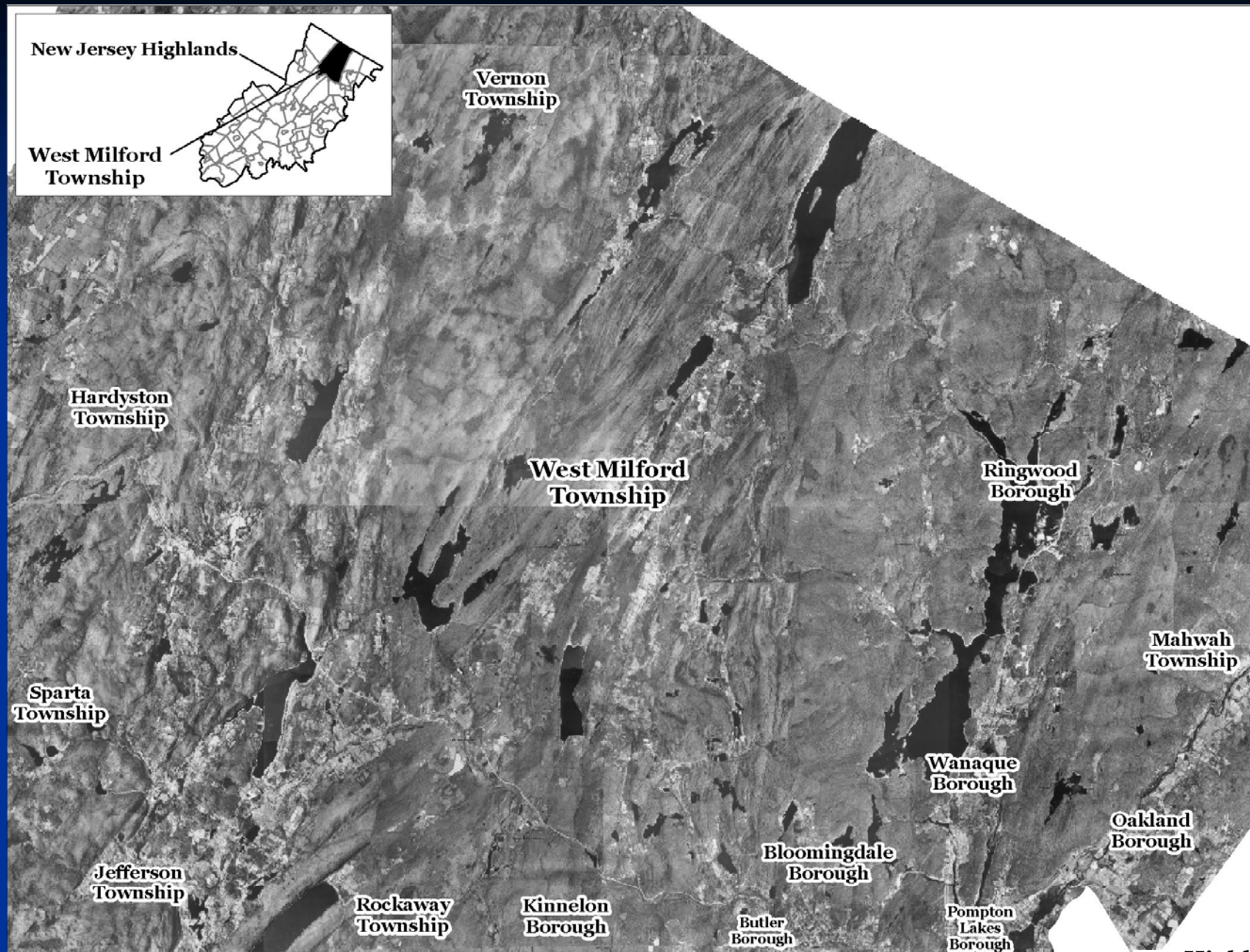
# West Milford

## Background Statistics

- Incorporated: 1834
- Population: 27,746
- Land Area: 51,848 acres / 81 sq. mi.
- Preserved Lands: 33,378 acres
- Wetlands: 5,353 acres
- Total Forest: 40,390 acres
- Farmland: 347 acres







## West Milford Township - 1930

# West Milford Township

## Significant Highlands Statistics

- Preservation Area Lands: 51,846 acres – 100%
- Protection Zone – 46,392 acres – 89.5% (Roads 3%)
- Existing Community Zone – 3,889 acres – 7.5%
- Conservation Zone – 0 acres – 0%
- Highlands Open Water Protection – 30,543 acres – 59%
- Forest Resource Area – 50,860 acres – 98%
- Conservation Priority Areas – 12,181 acres – 23%
- Special Environmental Zone – 2,398 acres – 5%

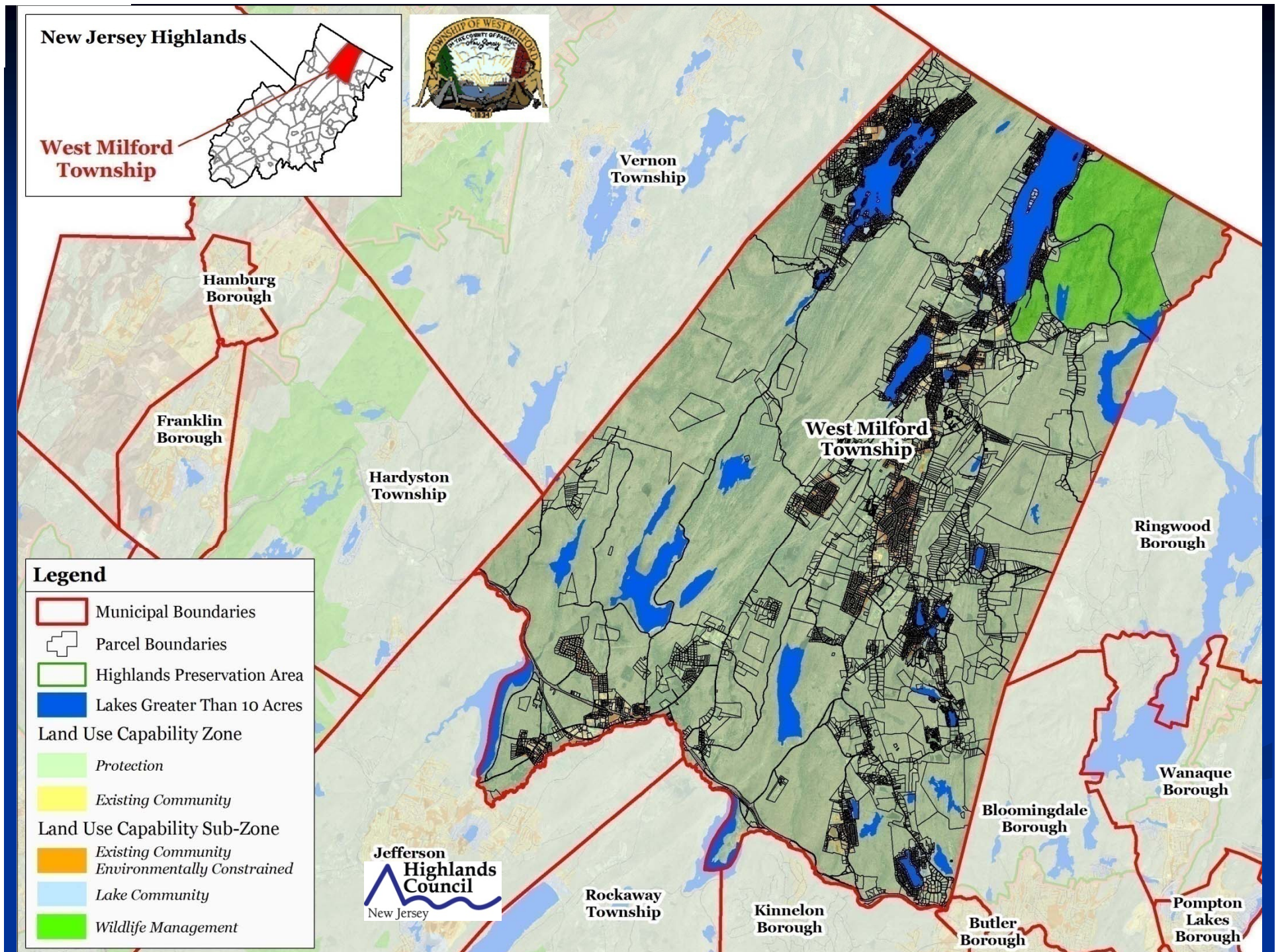
# West Milford Township

## Background Statistics – Land Use

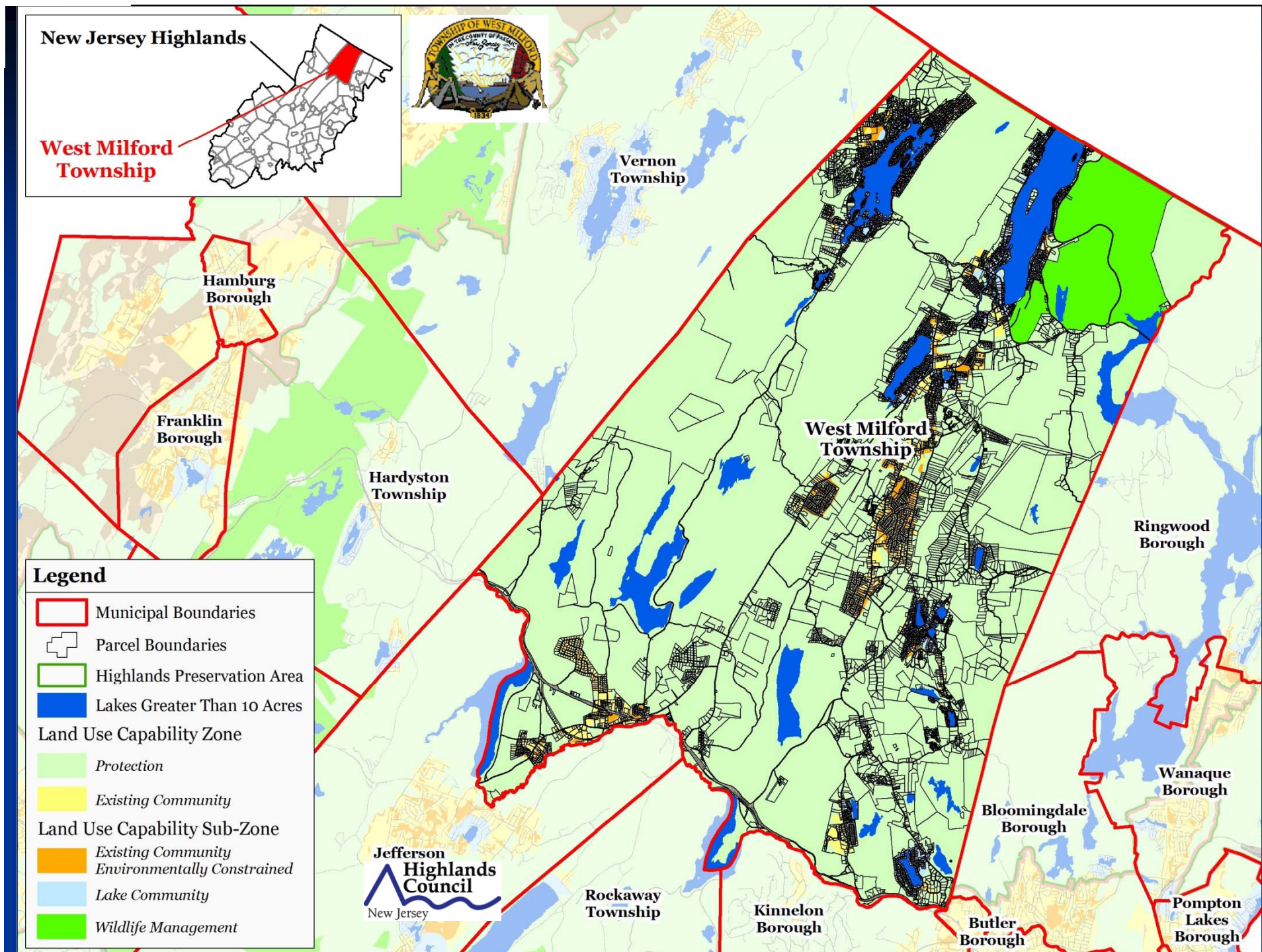


NJDEP Land Use/Land Cover (2007)	Pres	Percent
Residential (Single & Multi Family)	5,202	10.0%
Commercial (Retail)	405	0.8%
Industrial & Transportation & Utilities	648	1.3%
Agriculture (Crops & Plantations)	531	1.0%
Recreational Lands (Public & Private)	270	0.5%
Extractive Mining	66	0.1%
Other Urban or Built-Up Land	324	0.6%
<b>Subtotal Developed Lands</b>	<b>7,446</b>	<b>14.4%</b>
Mixed Forest	34,852	67.2%
Shrub & Scrub	184	0.4%
Mixed Wetlands	5,351	10.3%
Barren Lands	139	0.3%
Water	3,874	7.5%
<b>Subtotal Natural Lands</b>	<b>44,400</b>	<b>85.6%</b>
<b>Total</b>	<b>51,846</b>	<b>100.0%</b>

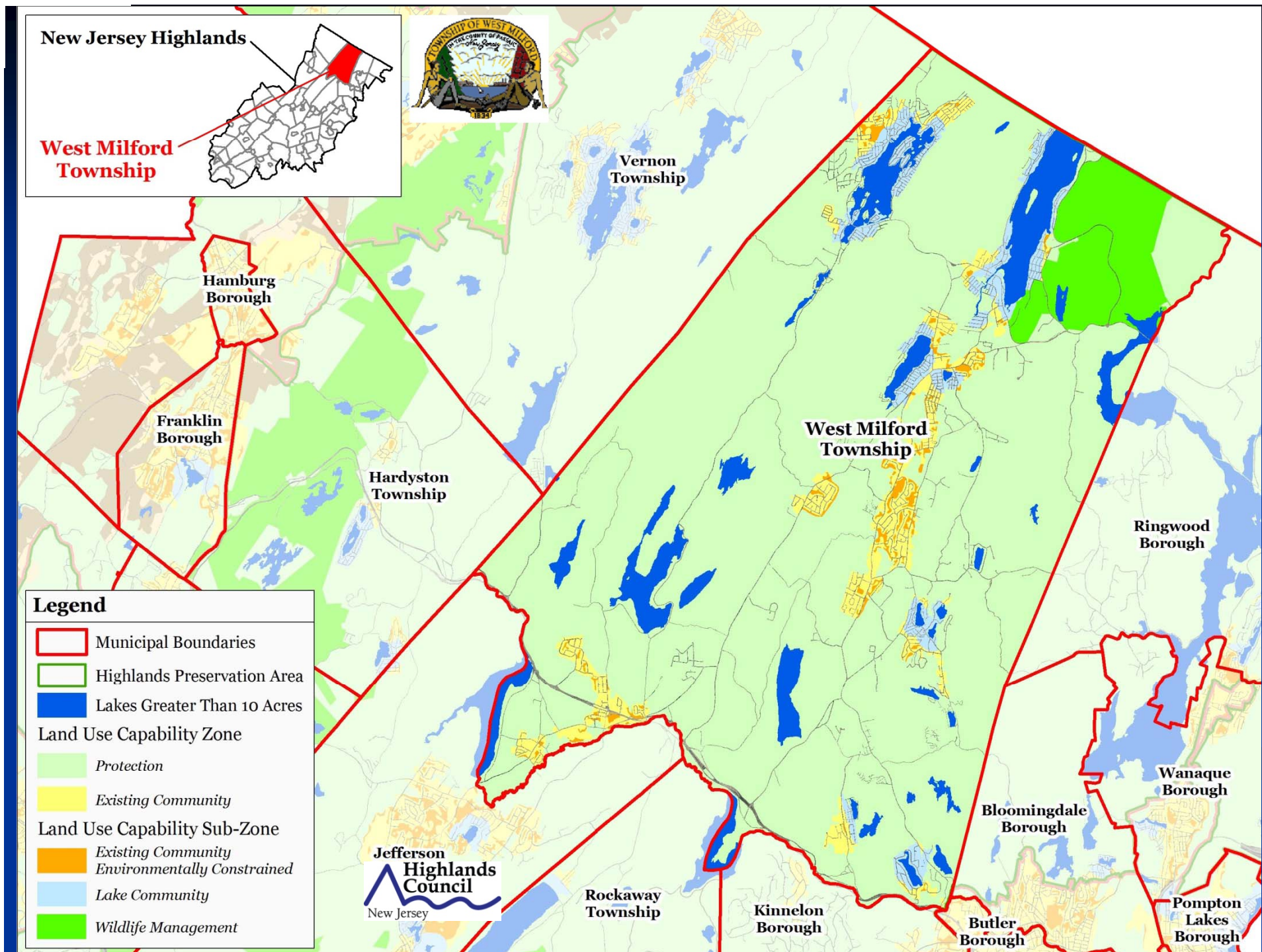




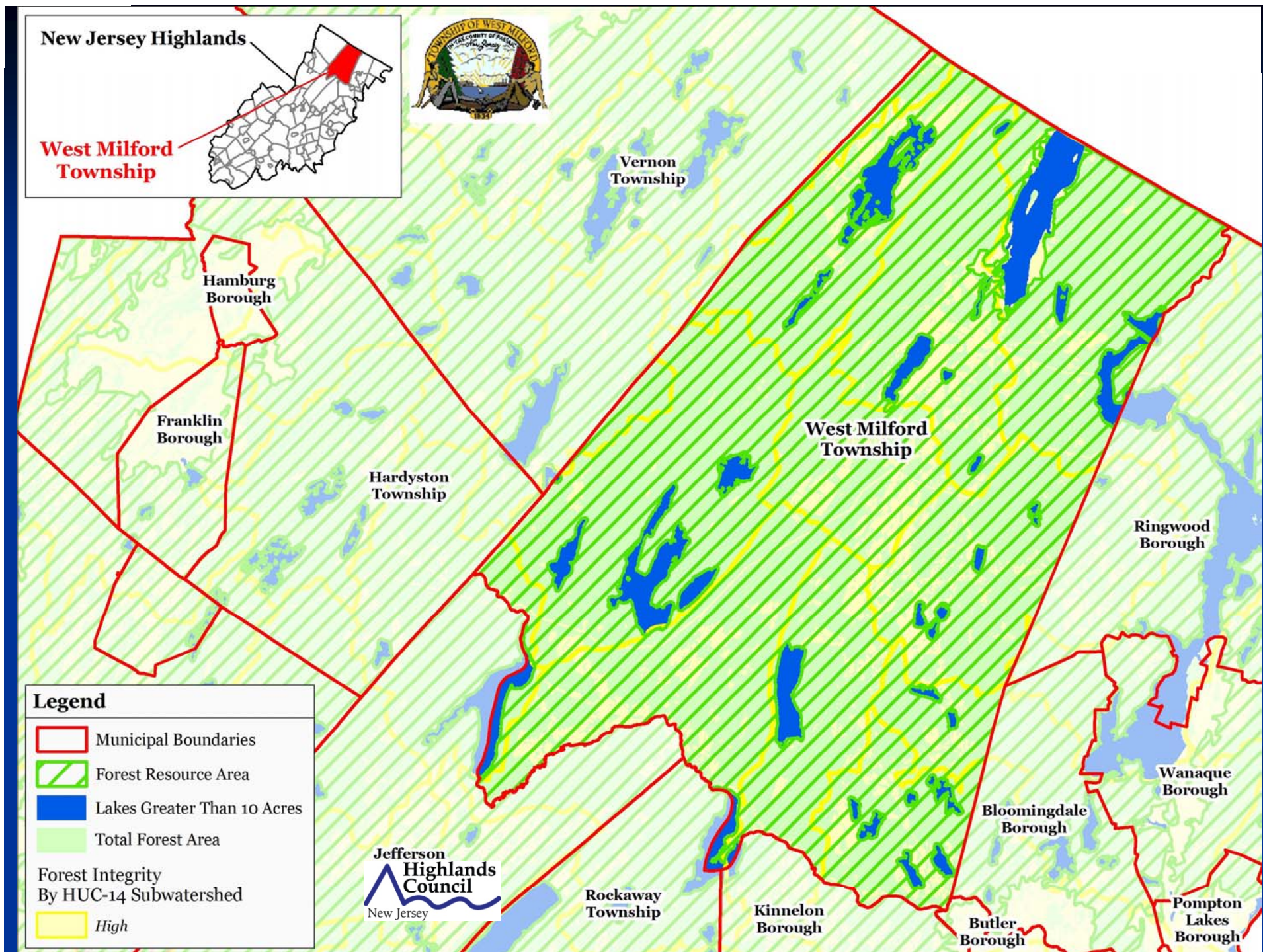




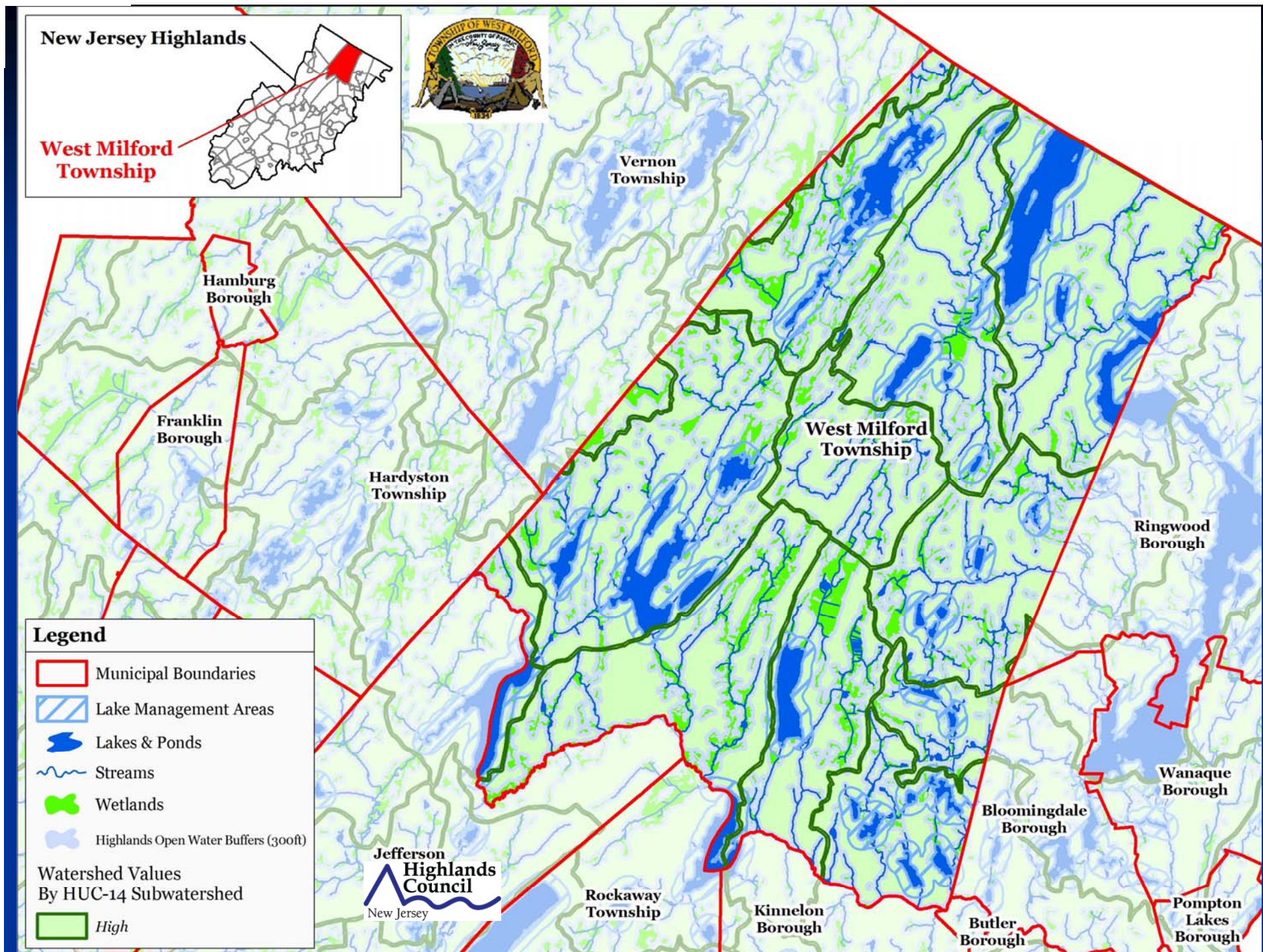




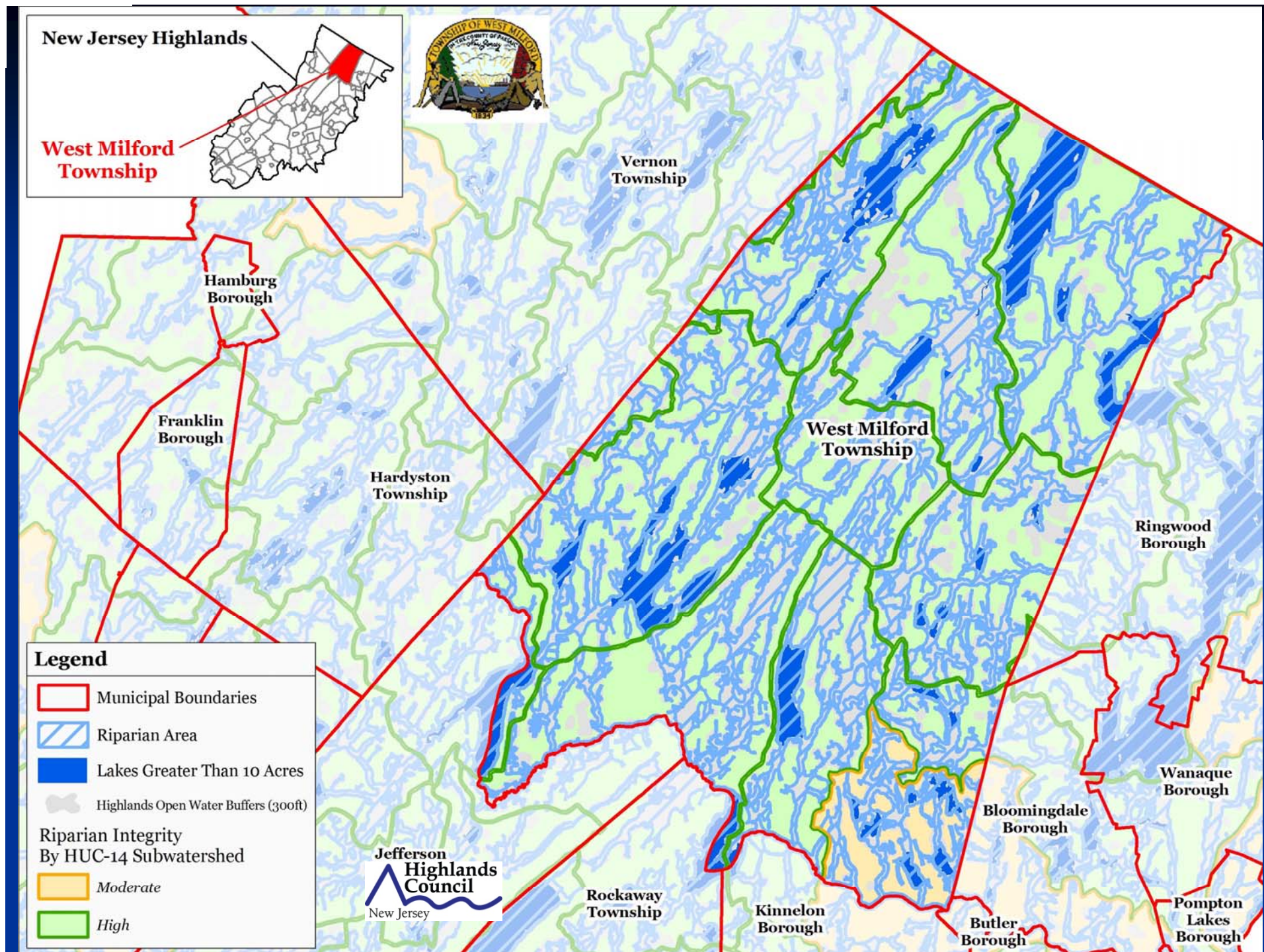




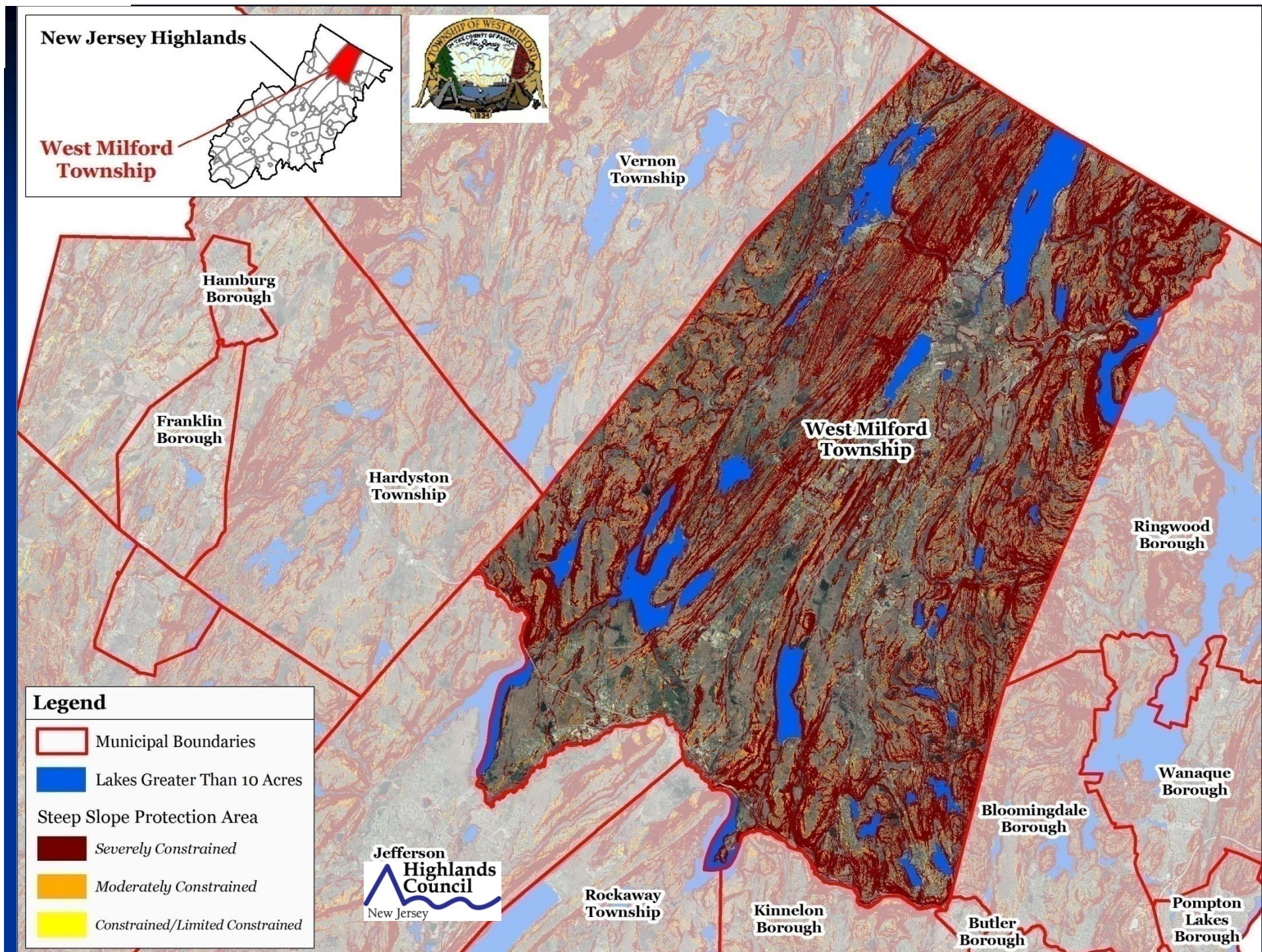




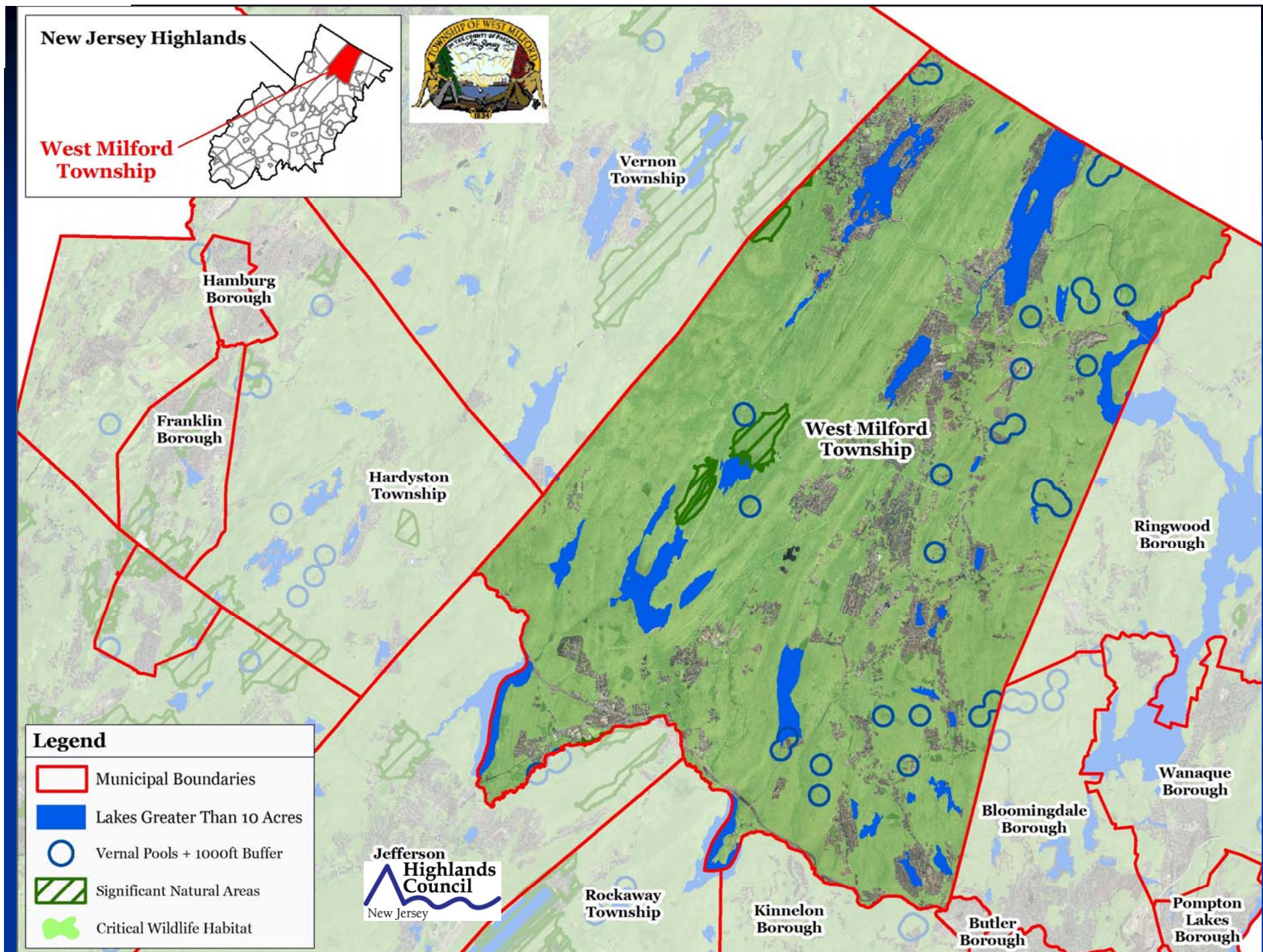




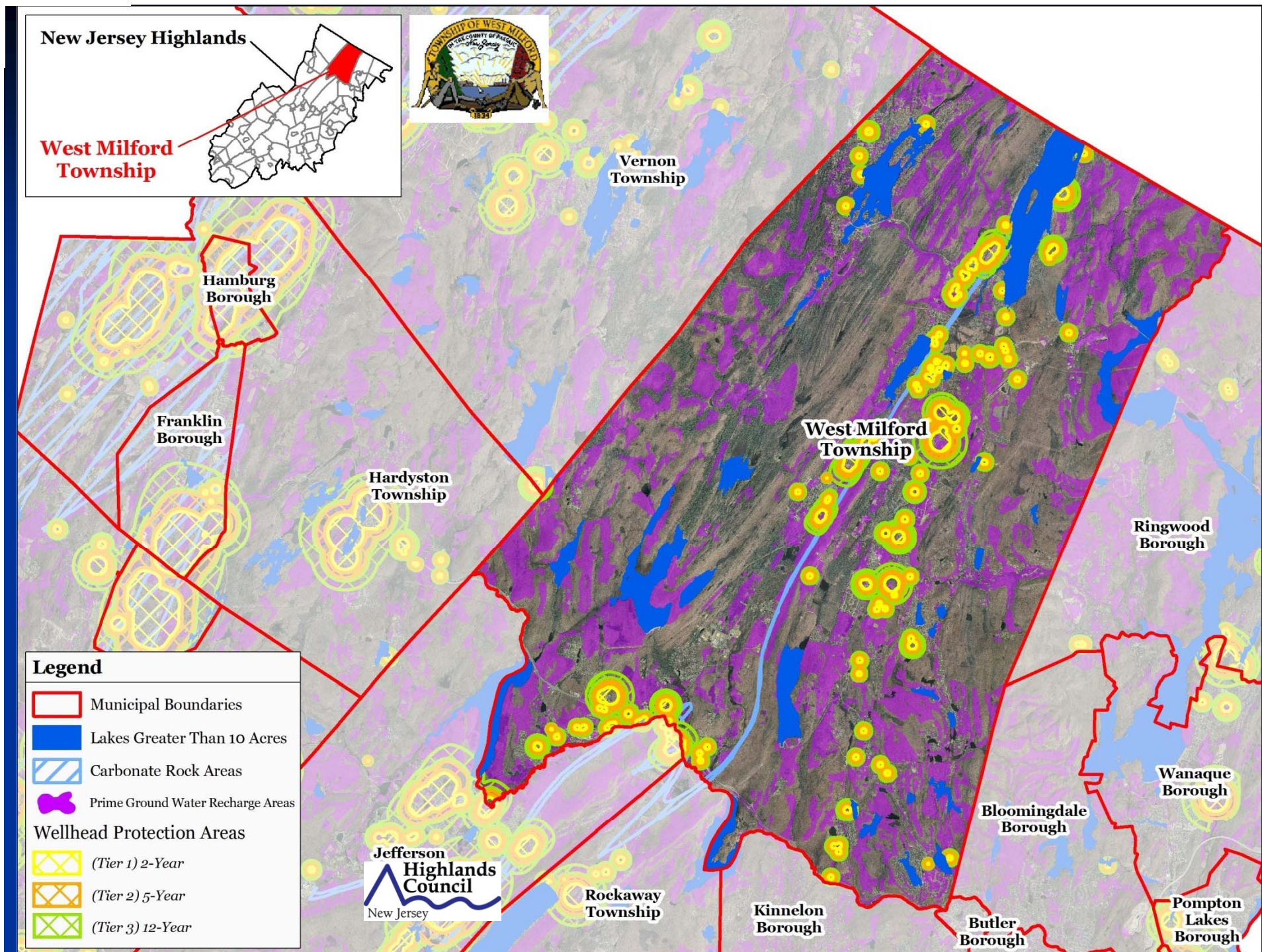




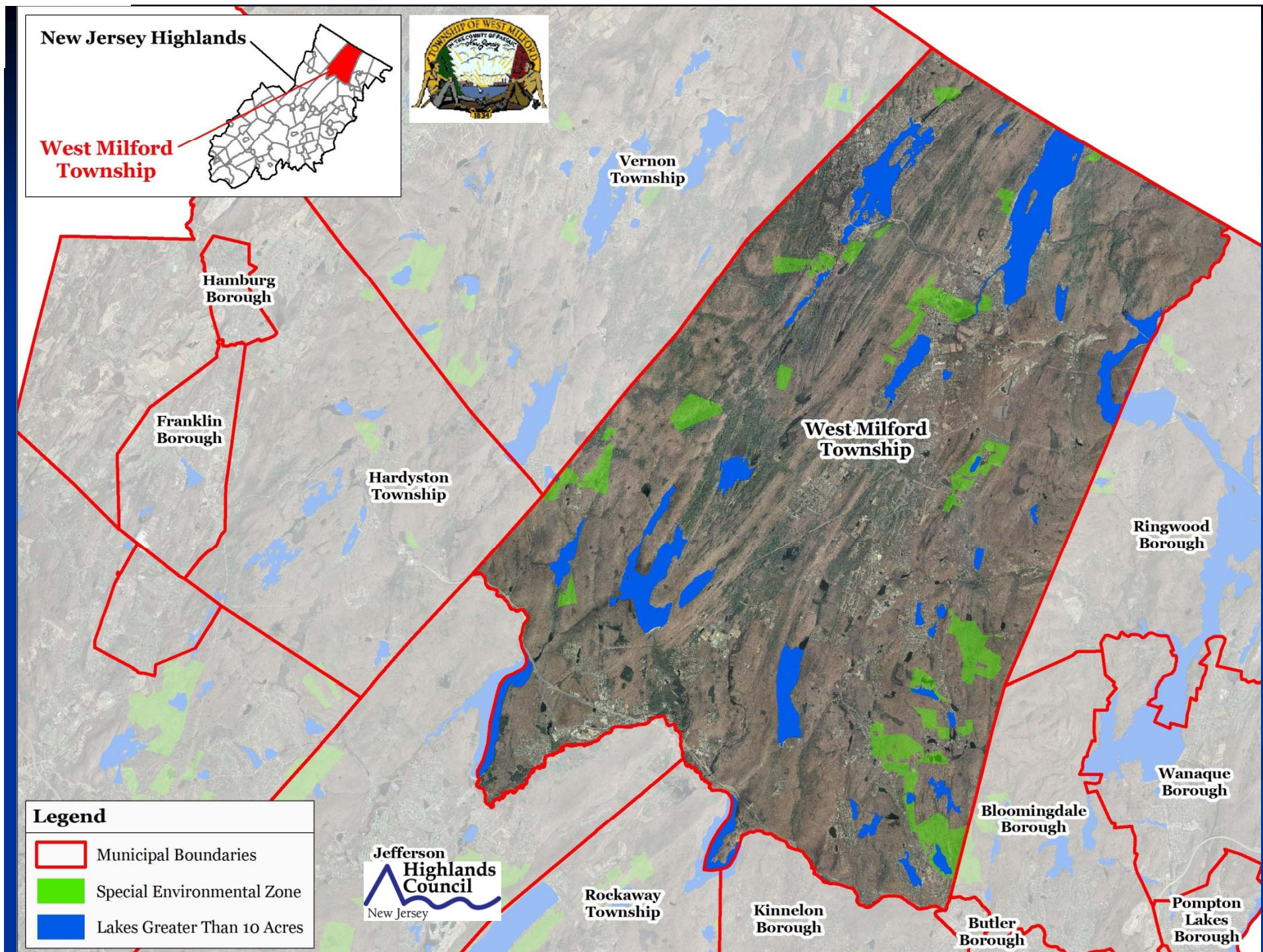




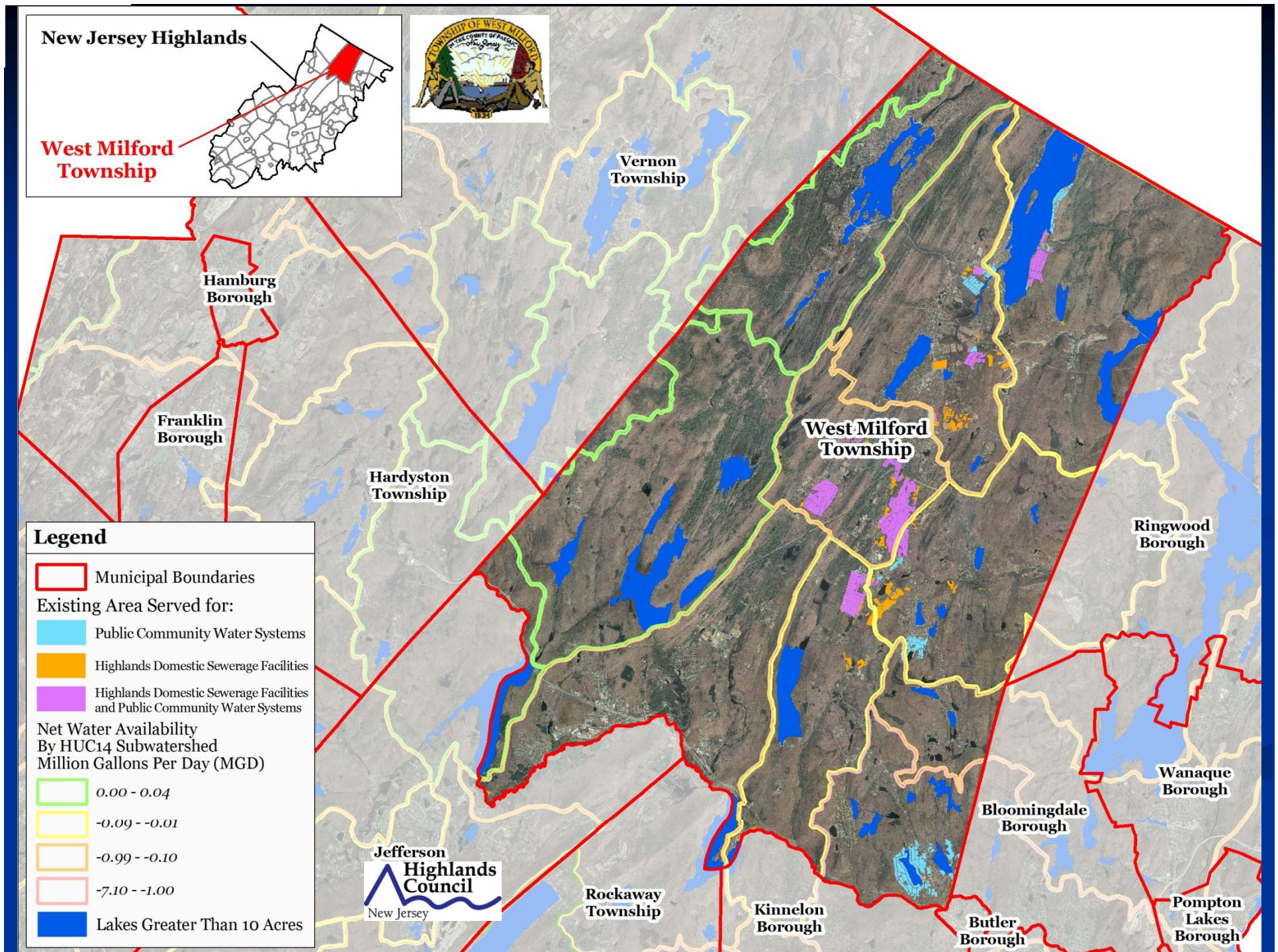




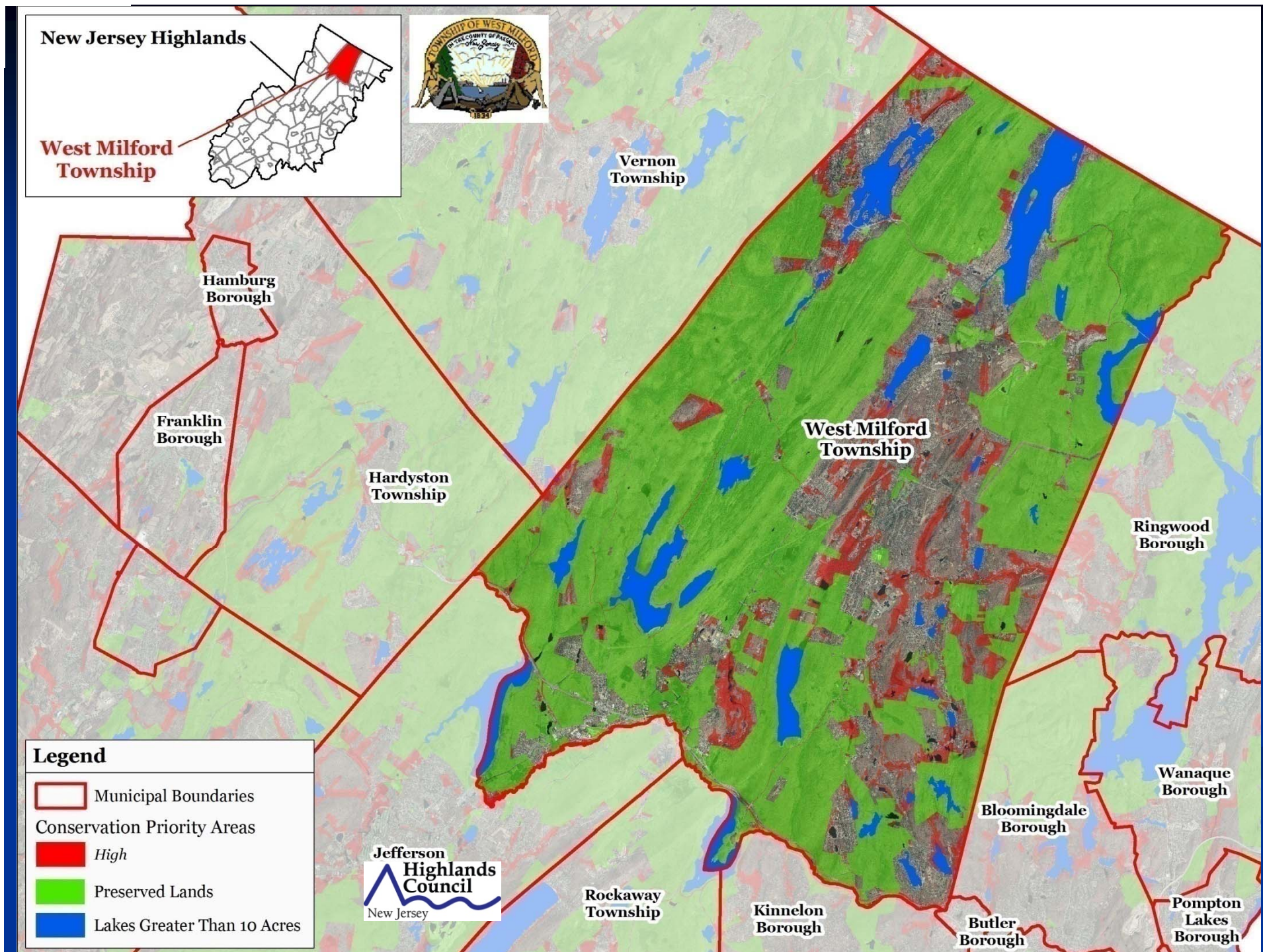




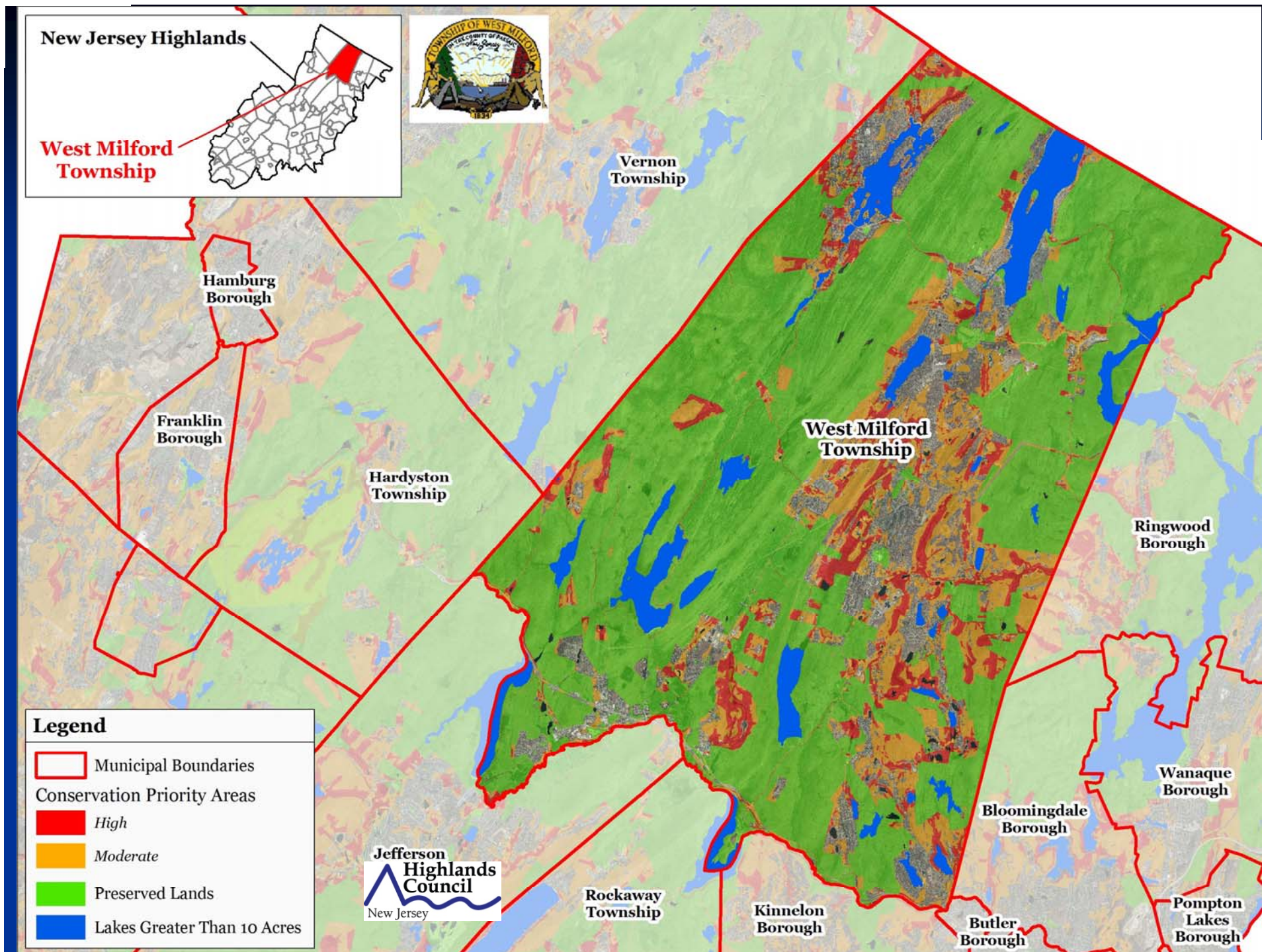






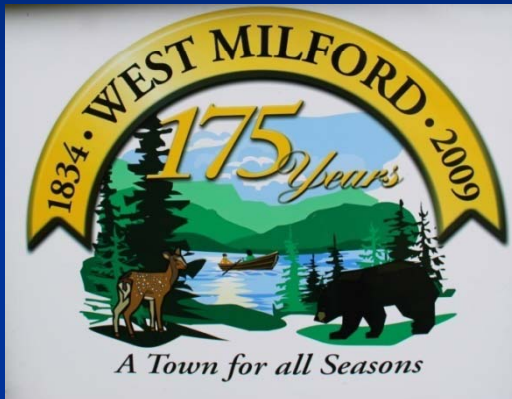






# West Milford Township

Passaic County, New Jersey



## PETITION FOR PLAN CONFORMANCE ADMINISTRATIVE RECORD

12/8/09	Petition for Plan Conformance Submitted
2/4/10	Petition Deemed Administratively Complete
2/9/10	Petition Posted to Highlands Council Website
12/23/10	Draft Consistency Report Sent to Municipality
1/20/11	Final Draft Report Posted to Highlands Council Website
2/4/11	End of Public Comment Period (Start 1/20/11)
2/10/11	Final Report Posted to Highlands Council Website
2/17/11	Highlands Council Public Hearing



# Highlands Municipal Build-Out Report – Modules 1 & 2

- The Report uses a Limiting Factor Analysis to examine Land-Based, Resource-Based, and Utility-Based Capacities.
- The Highlands Municipal Build-Out Report for West Milford 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 and was posted to the Highlands Council website on July 23, 2009.
- Staff RMP Consistency Finding: CONSISTENT

# Housing Plan – Module 3

- Summary of West Milford Township's Fair Share Obligation
  - Rehabilitation Share: 66 Units
  - Prior Round Obligation: 98 Units
  - Growth Share Obligation: 47 Units
- Summary of West Milford Township's Fair Share Plan
  - Rehabilitation Obligation: 20 units have been funded, and the remaining 46 units are proposed to be funded, through the Passaic County Department of Community Development program;
  - Prior Round Obligation: 98 prior round credits have been completed through 11 existing projects;
  - Third Round Obligation: 14 credits have been completed through the use of excess prior round credits. The remaining 33 units are proposed through a scattered site municipally sponsored development and accessory apartment program.
- Staff RMP Consistency Finding: CONSISTENT



# Environmental Resource Inventory

## Module 4

- Describes & Illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality
- West Milford's Submittal Based on Highlands Council Model Environmental Resource Inventory
  - ❖ All Applicable Narrative Portions Retained
  - ❖ All Applicable Exhibits Included
- Staff RMP Consistency Finding: CONSISTENT

# Master Plan Highlands Element Module 5

- Incorporates RMP Goals & Objectives into local planning; provides basis for effectuation of RMP
- West Milford's Submittal Based on Highlands Council Model
  - ❖ All Applicable Narrative Portions Retained
  - ❖ All Applicable Exhibits Provided
- Staff RMP Consistency Finding: CONSISTENT



# Highlands Area Land Use Ordinance

## Module 6

- Sets forth regulatory provisions that protect Highlands Resources and effectuate the policies, goals, and objectives of RMP at the local level.
- West Milford's Submittal Based on Highlands Council Model
  - ❖ All Applicable Narrative Portions Retained
  - ❖ All Applicable Exhibits Provided by the Highlands Council (Parcel-Based)
- Staff RMP Consistency Finding: CONSISTENT

# Municipal Petition for Plan Conformance

## Module 7

- Consists of all Petition Supporting Materials: Petitioning Resolution/Ordinance, Self-Assessment Report, List of Current Planning Documents, Highlands Implementation Plan & Schedule
- West Milford's Submittals Based on Highlands Council Models
  - ❖ Resolution (Preservation Area) Complete
  - ❖ Self-Assessment Report Accurate & Complete
  - ❖ Highlands Implementation Plan and Schedule Complete
- Staff RMP Consistency Finding: CONSISTENT



## **West Milford's Petition for Plan Conformance Public Comments Received**

- The public comment period for West Milford's Petition for Plan Conformance opened January 20, 2011, and closed February 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:
  - Kevin Walsh, Esq., on behalf of the Fair Share Housing Council
  - Julia Somers, New Jersey Highlands Coalition

# West Milford's Petition for Plan Conformance

## Public Comments Received

### Comments submitted by Fair Share Housing Center:

- **Summary of Comments:** The Fair Share Housing Center objects to reliance on the Highlands build-out numbers for calculating the township's fair share obligation of affordable housing.
- **Summary of Response:** These comments specifically relate to matters that are pending before the Appellate Division in litigation filed by Fair Share Housing Center. The Petition should be approved conditioned upon achieving and retaining compliance with the Fair Housing Act. In addition, the response clarifies that the Build-out Report is based upon the Highlands Act and RMP Requirements.



# West Milford's Petition for Plan Conformance

## Public Comments Received

### Comments submitted by Julia Somers, New Jersey Highlands Coalition:

- **Comment:** It will take considerable resolve by the Township to meet its affordable housing obligations.
- **Response:** The Township's Housing Element and Fair Share Plan have been determined to be consistent with the RMP. The Council recognizes the constraints placed on the Township regarding affordable housing and will work with the Township to fulfill their obligations.
- **Comment:** The Coalition supports the development of Water Use and Conservation Management Plans (WUCMP) and asks when they will begin and completed.
- **Response:** The WUCMPs that will be established for municipal conformance will begin after completion of the Council's ongoing pilot program. This will enable the Council to utilize the benefits of those projects to be applied to new planning efforts.

# West Milford's Petition for Plan Conformance

## Public Comments Received

### Comments submitted by Julia Somers, New Jersey Highlands Coalition:

- **Comment:** The Coalition notes that West Milford continues to seek Center designation with the Office of State Planning. Because it is entirely Preservation Area, it is appropriate that the Township stop pursuing Center designation from that agency.
- **Response:** West Milford is an entirely Preservation Area municipality and thus must conform to the Regional Master Plan. Through Plan Conformance they may seek center designation but that center would still be subject to the Highlands Act, Highlands DEP rules and the Highlands Regional Master Plan. We will work with West Milford to address this.



# **Petition Disposition**

## **West Milford Township's Petition for Plan Conformance**

Staff Recommendation: **APPROVE WITH CONDITIONS**

### **PROPOSED 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**

# Petition Disposition

## West Milford Township's Petition for Plan Conformance

Staff Recommendation: **APPROVE WITH CONDITIONS**

### PROPOSED CONDITIONS, Continued

- **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
  - Highlands Redevelopment Area Planning Program
  - Land Preservation & Stewardship Program
  - Right to Farm Ordinance



# **West Milford's Petition for Plan Conformance**

## **Previous Highlands Protection Fund Grants**

- **Fair Share Planning Grant** for the development of a Housing Element and Fair Share Plan is complete.
- **Municipal Pilot Planning Project Grant** to explore redevelopment opportunities and an eco-tourism plan is complete.
- **Initial Assessment Grant**, the report is complete.
- **Water Use and Conservation Management Plan** pilot grant is ongoing.

# **West Milford's Petition for Plan Conformance**

## **Future Highlands Protection Fund Grants**

- **Highlands Implementation Plan and Schedule** – Grant funding is proposed for the following:
  - **Water Use and Conservation Management Plan** for two additional subwatersheds, with the Highlands Council serving as the lead for this project.
  - **Highlands Redevelopment Area Planning** to initiate planning to examine potential for redevelopment areas consistent with the Regional Master Plan.



# Council Deliberation



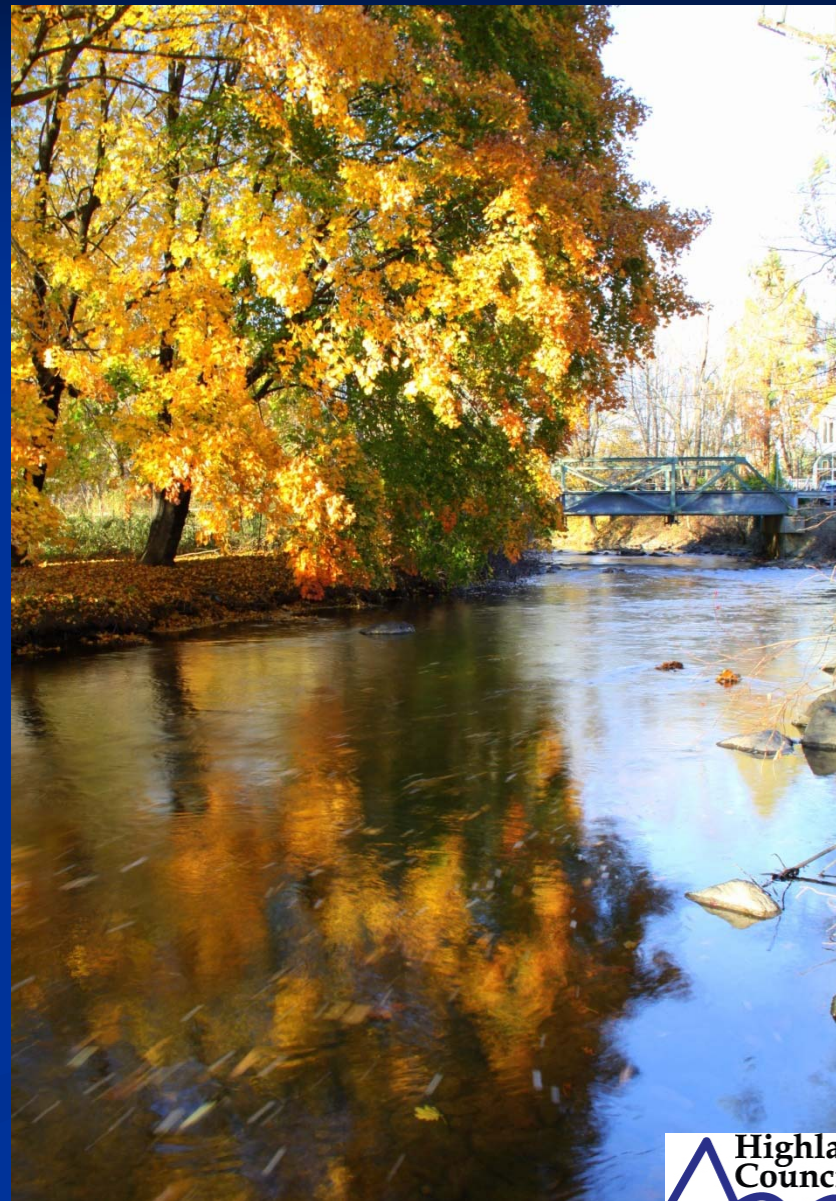
## West Milford Township

# Public Hearing

## Tewksbury Township Petition for Plan Conformance



# Introduction to Tewksbury Township





# Tewksbury Township

## Background Statistics

- Incorporated: 1798
- Population: 6,076
- Land Area: 20,326 acres / 31.7 sq. mi.
- Preserved Lands: 3,645 acres
- Wetlands: 893 acres
- Total Forest: 9,409 acres
- Farmland: 5,968 acres





## Tewksbury Township - 1930

# Tewksbury Township

## Significant Highlands Statistics

- Preservation Area Lands: 13,469 acres – 66%
- Planning Area Lands: 6,857 acres – 34%
- Conservation Zone – 12,060 acres – 59.4%
- Protection Zone – 7,442 acres – 36.6% (Roads 2.9%)
- Existing Community Zone – 228 acres – 1.1%
- Highlands Open Water Protection – 7,661 acres – 38%
- Forest Resource Area – 10,249 acres – 50%
- Agricultural Priority Areas – 7,494 acres – 37%
- Conservation Priority Areas – 2,379 acres – 12%

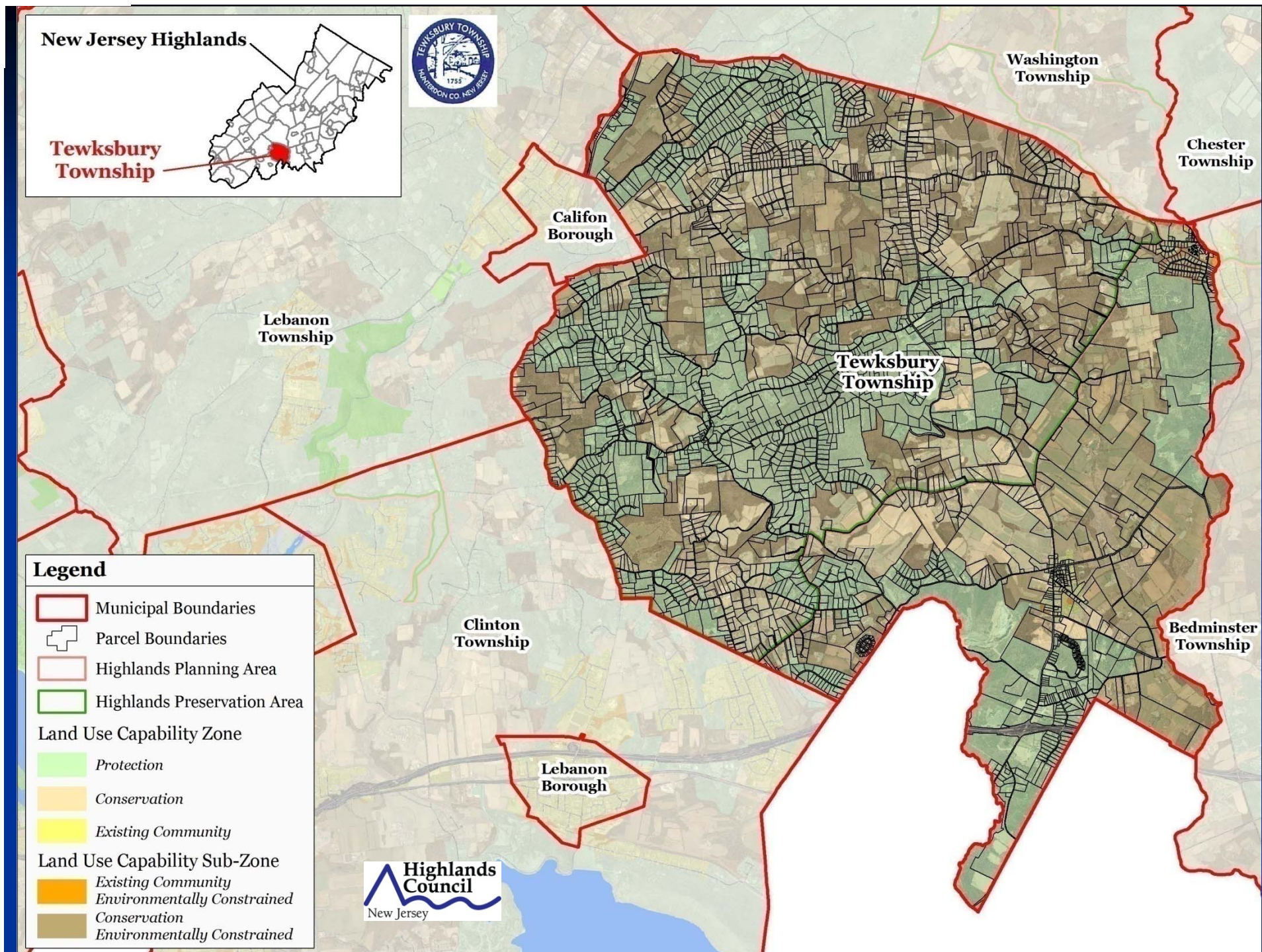


# Tewksbury Township

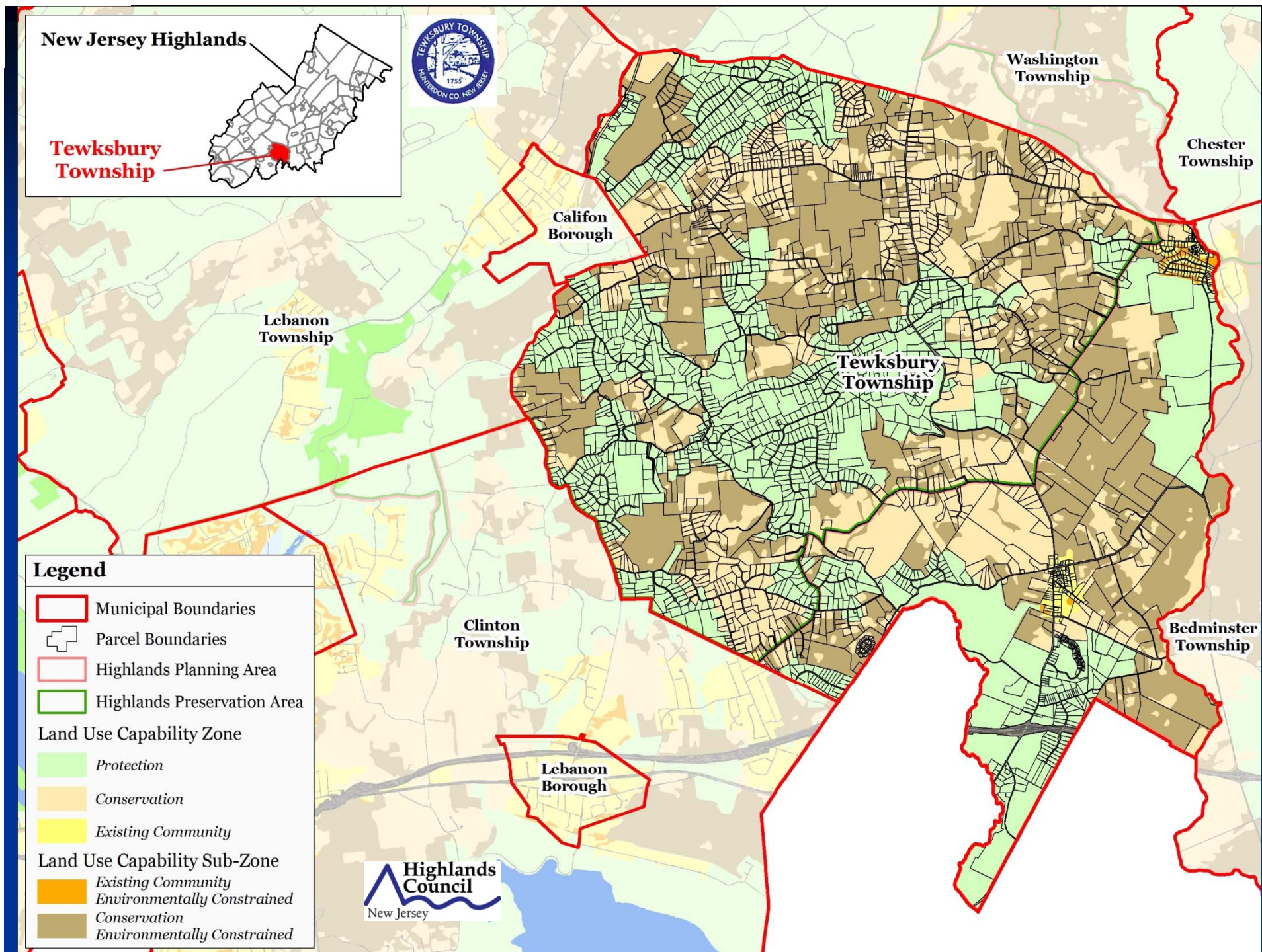
## Background Statistics – Land Use



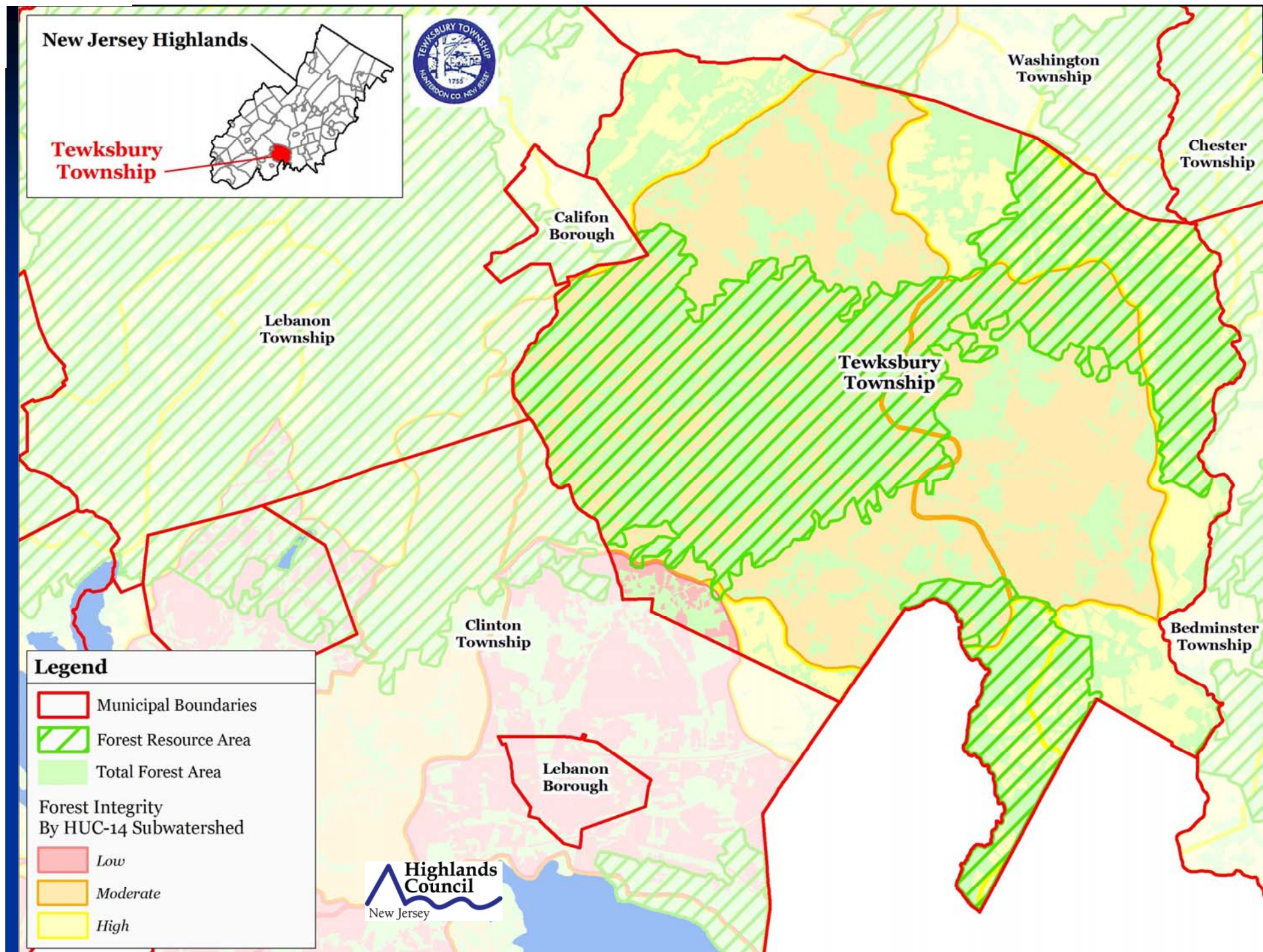
NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	857	3,032	19.1%
Commercial (Retail)	43	29	0.4%
Industrial & Transportation & Utilities	70	116	0.9%
Agriculture (Crops & Plantations)	2,659	3,271	29.2%
Recreational Lands (Public & Private)	30	52	0.4%
Extractive Mining	77	0	0.4%
Other Urban or Built-Up Land	85	196	1.4%
<b>Subtotal Developed Lands</b>	<b>3,820</b>	<b>6,696</b>	<b>51.7%</b>
Mixed Forest	1,897	5,784	37.8%
Shrub & Scrub	683	385	5.3%
Mixed Wetlands	369	515	4.3%
Barren Lands	20	14	0.2%
Water	69	75	0.7%
<b>Subtotal Natural Lands</b>	<b>3,037</b>	<b>6,773</b>	<b>48.3%</b>
<b>Total</b>	<b>6,857</b>	<b>13,469</b>	<b>100.0%</b>



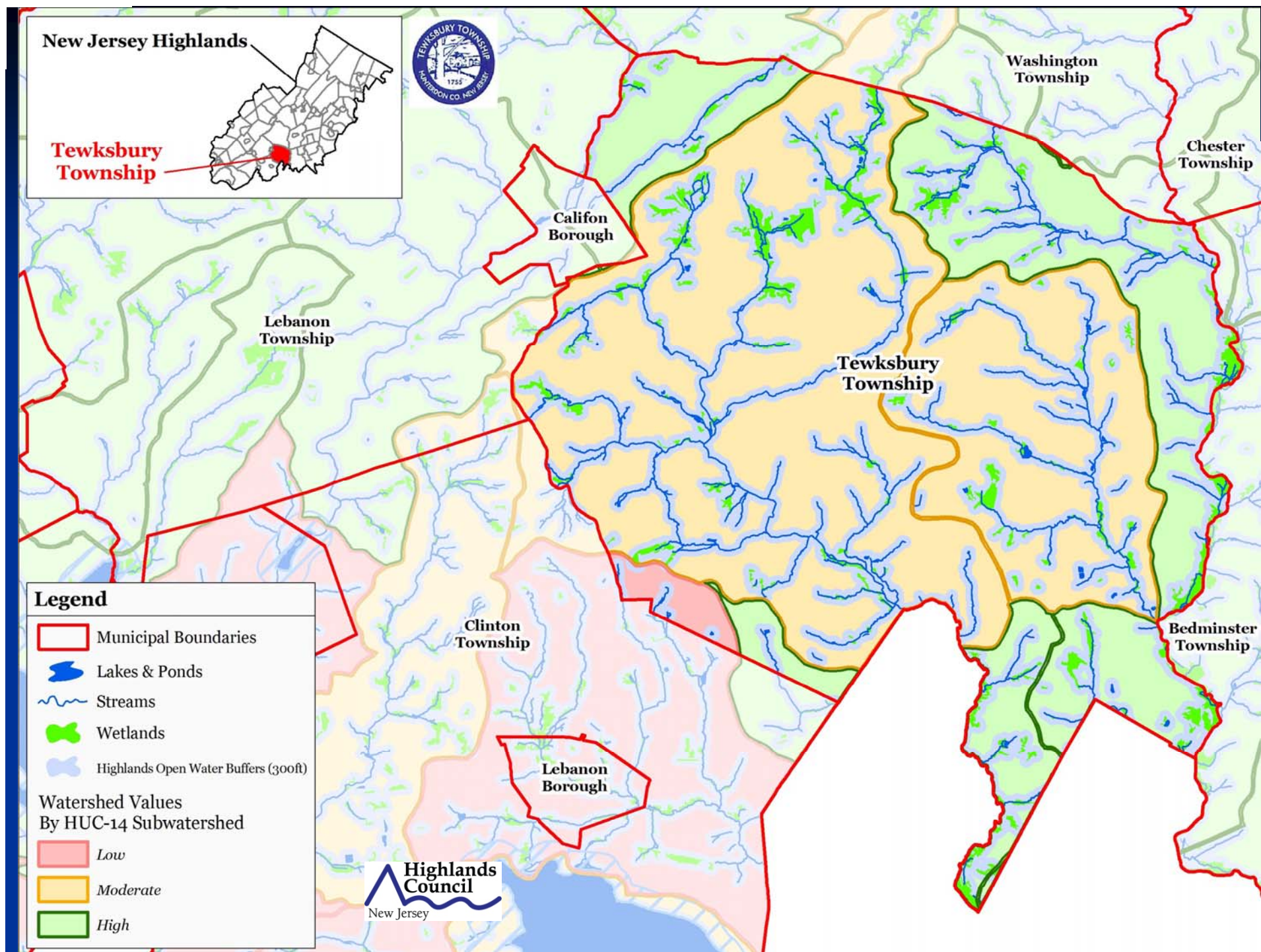




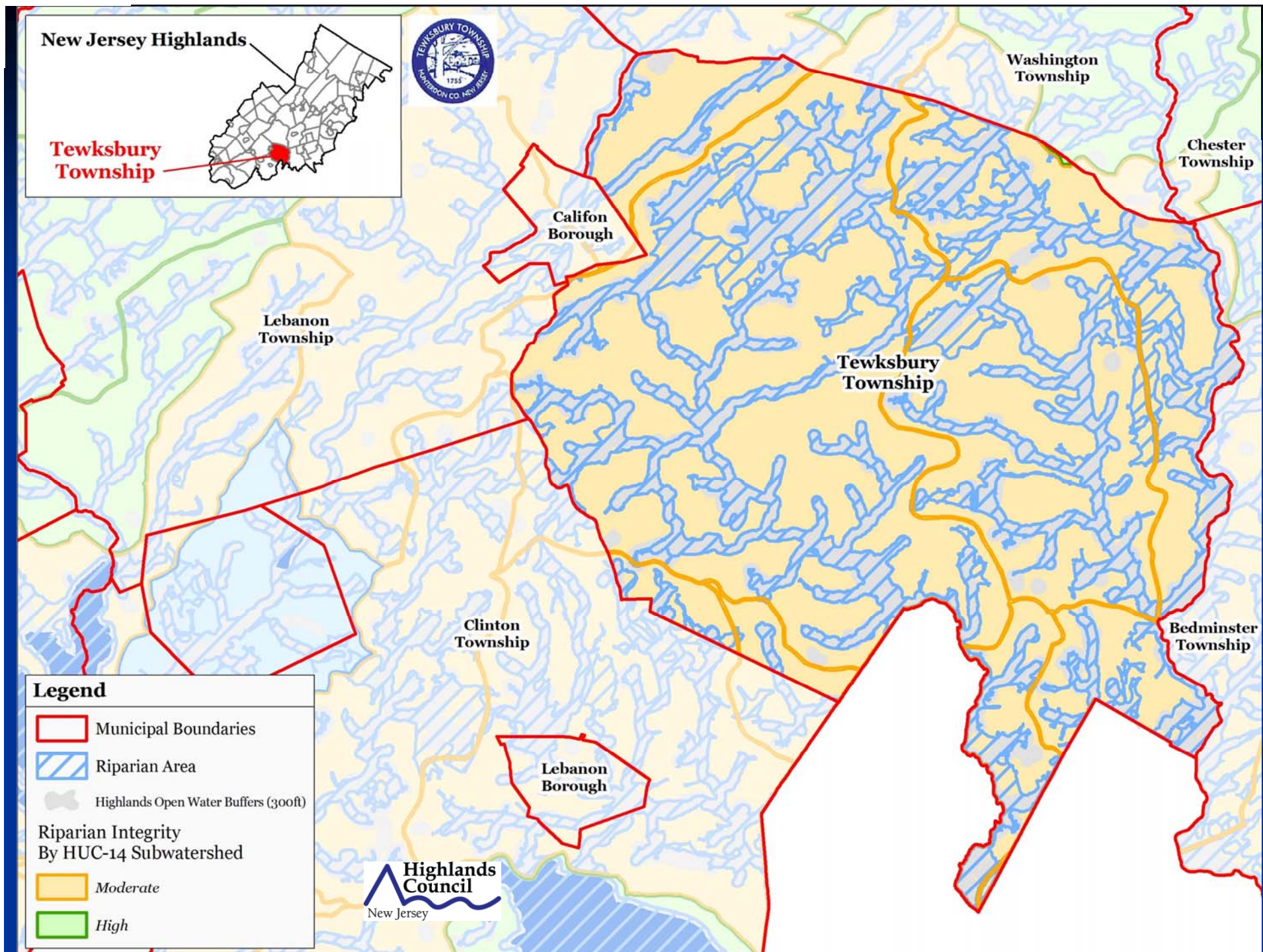




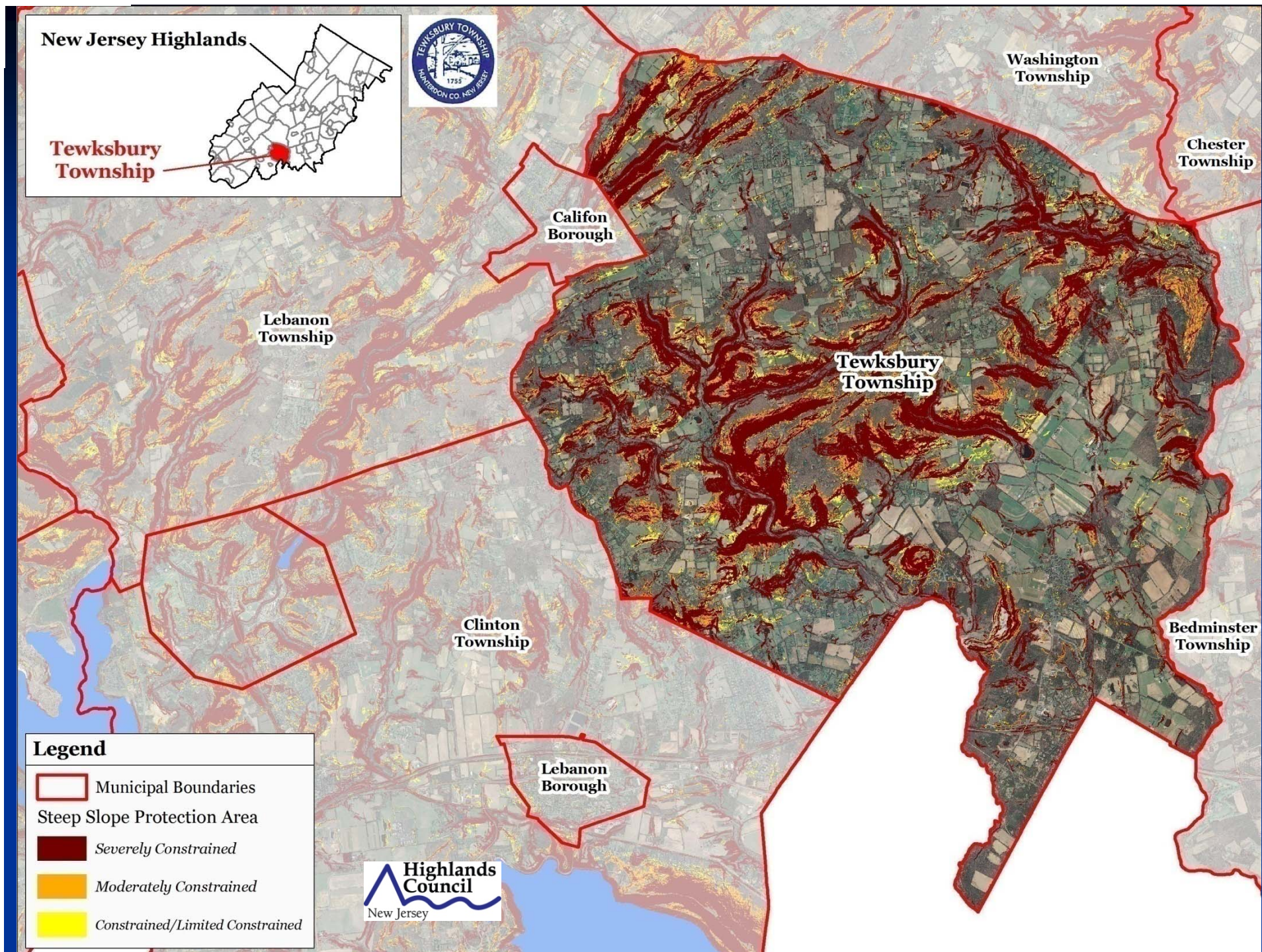




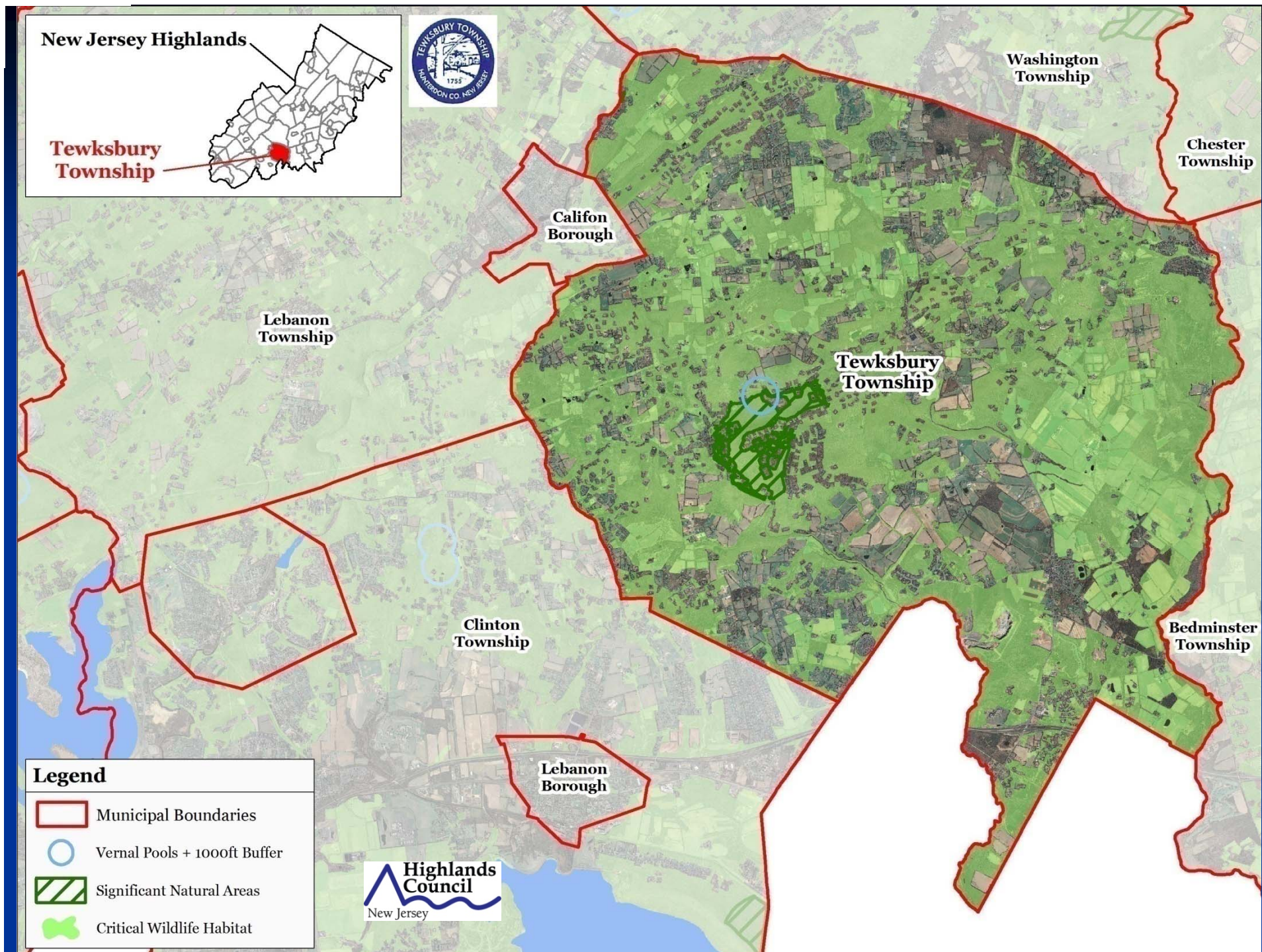




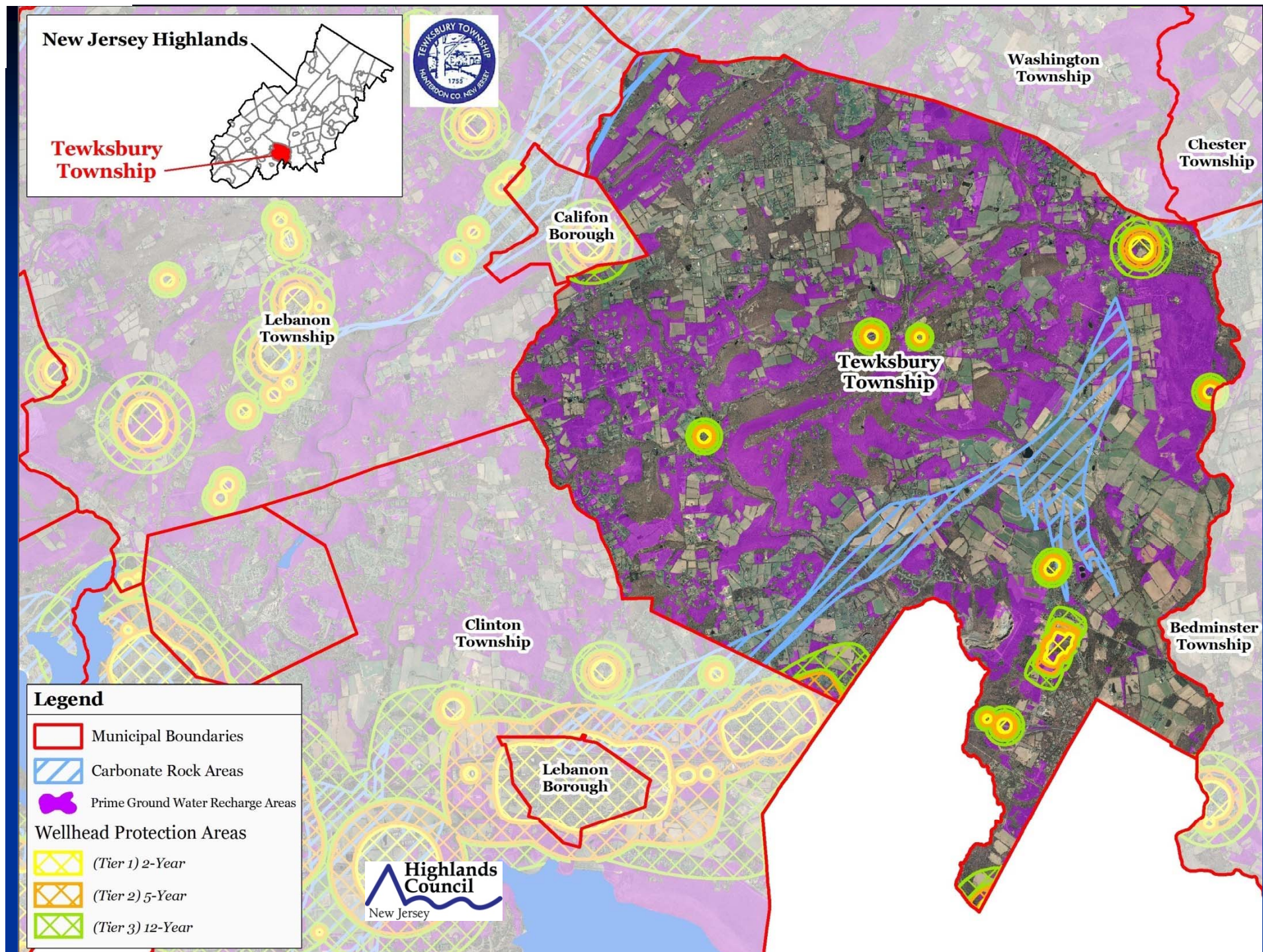




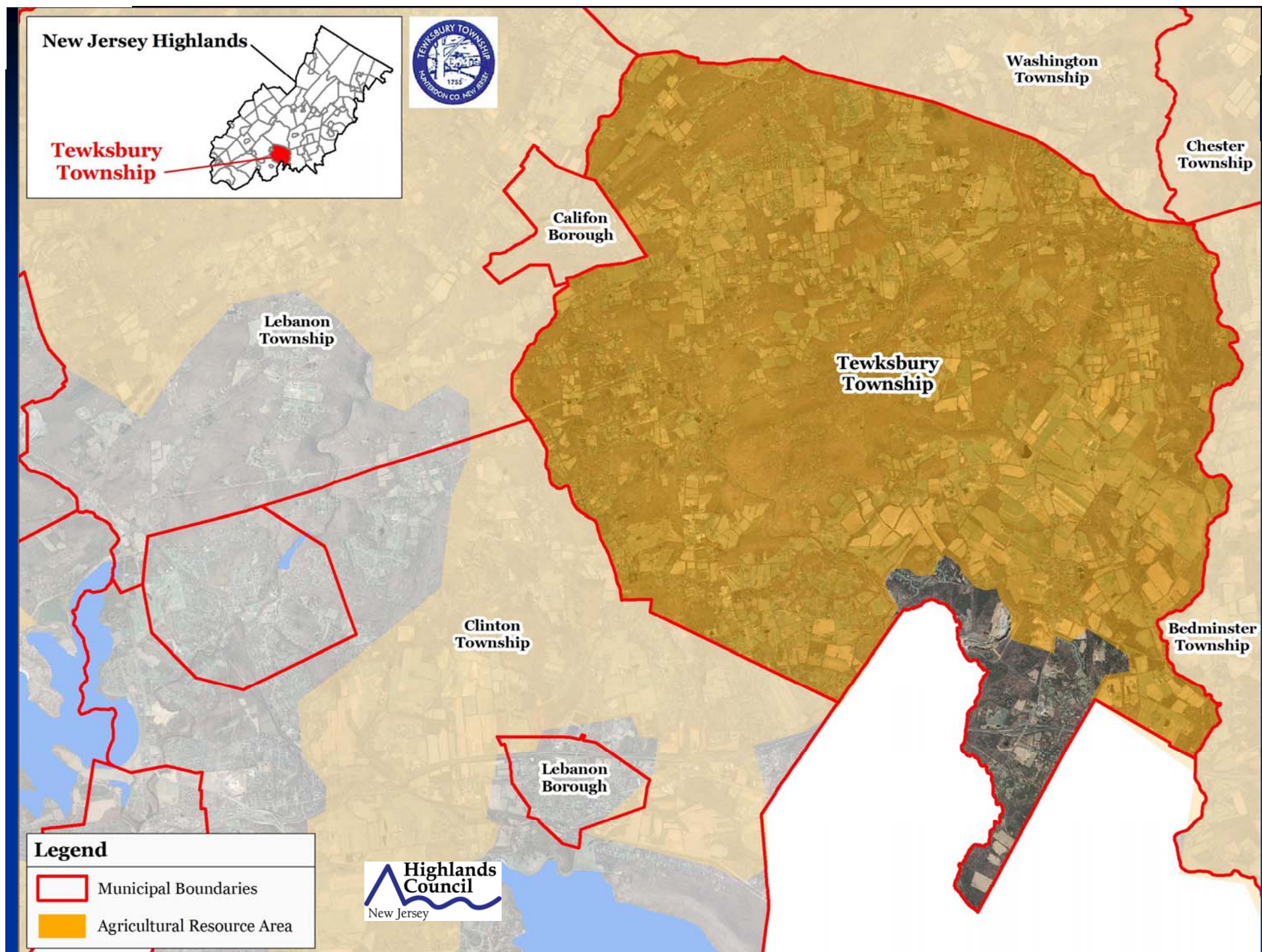




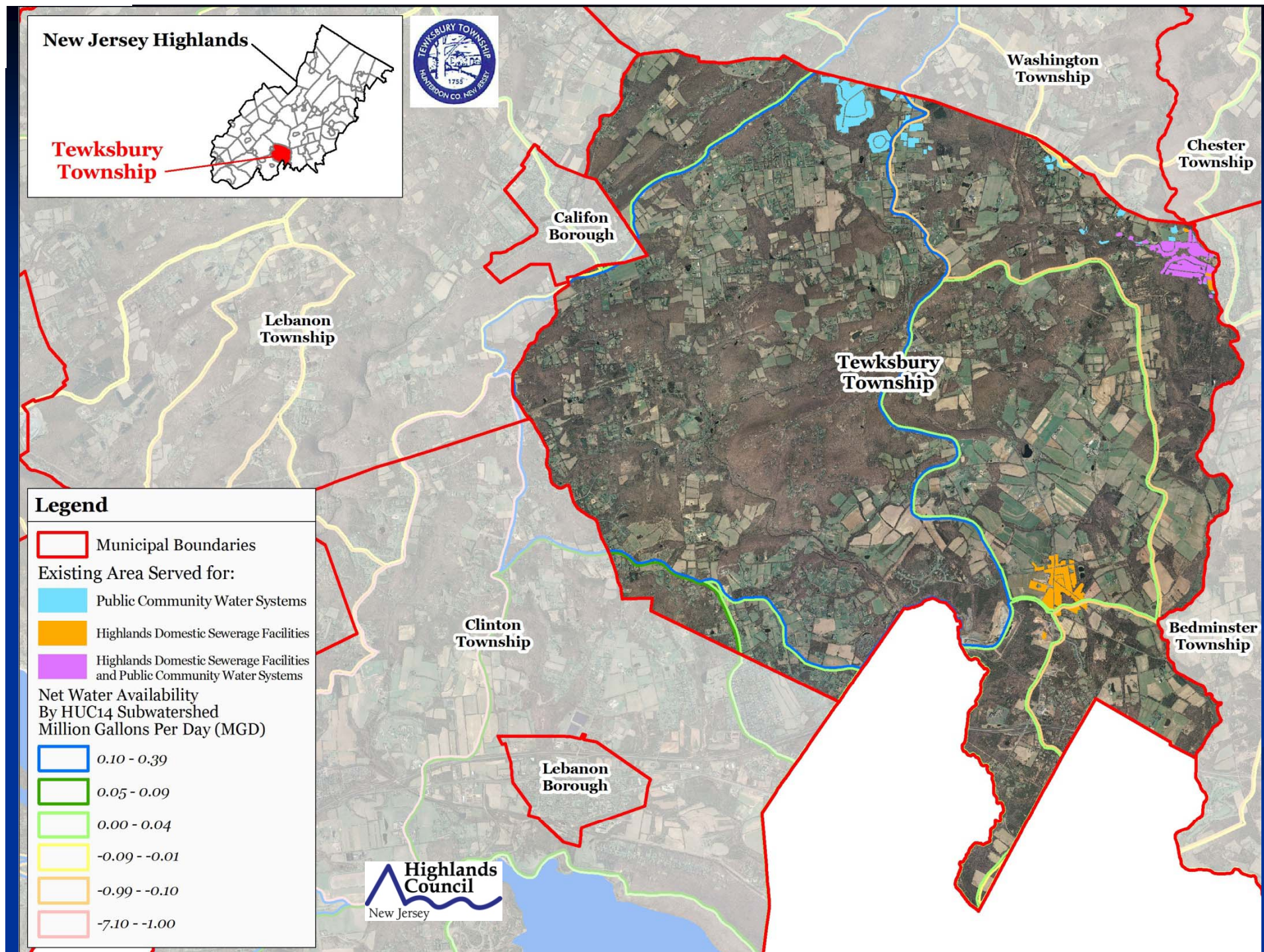




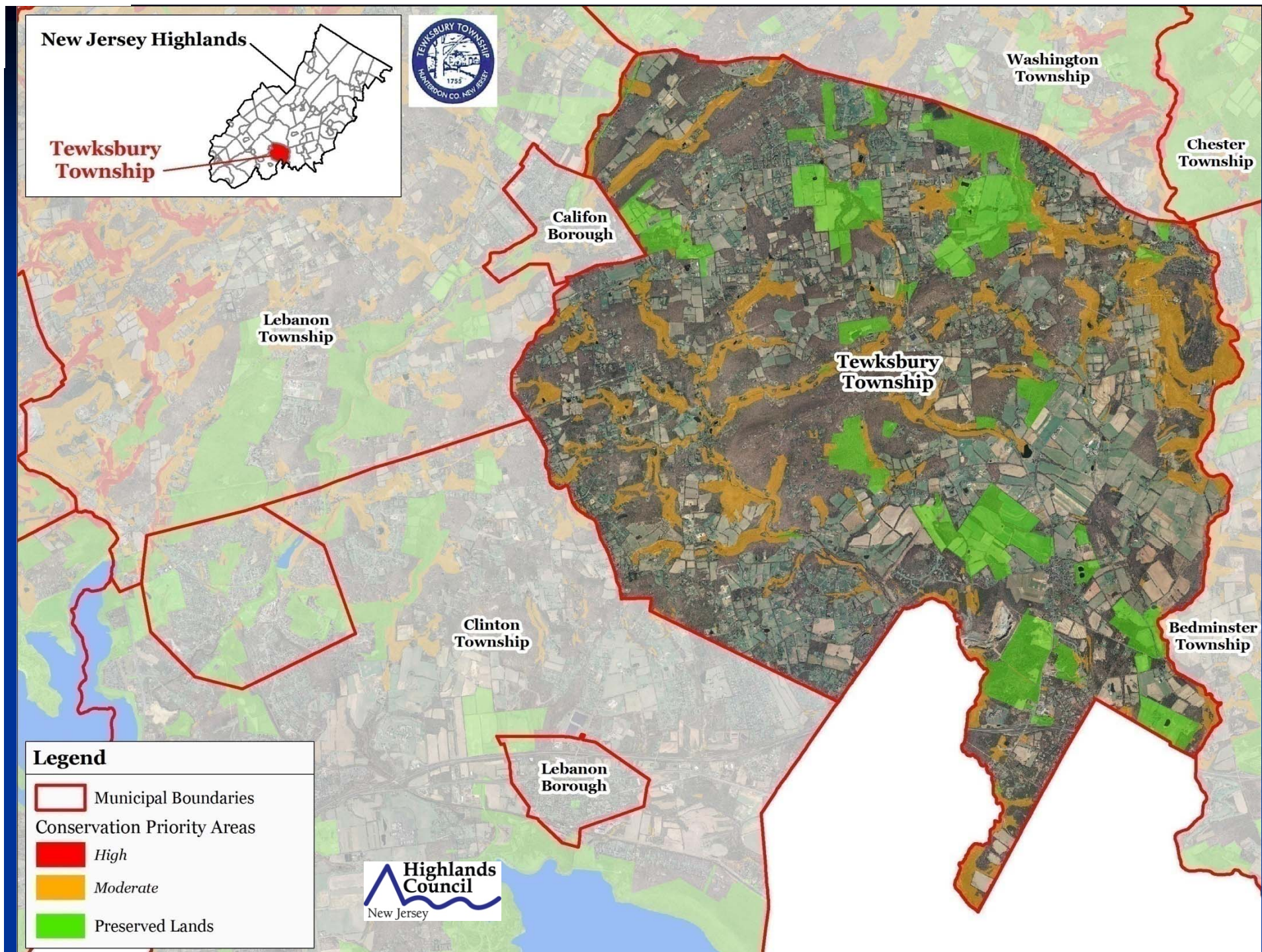




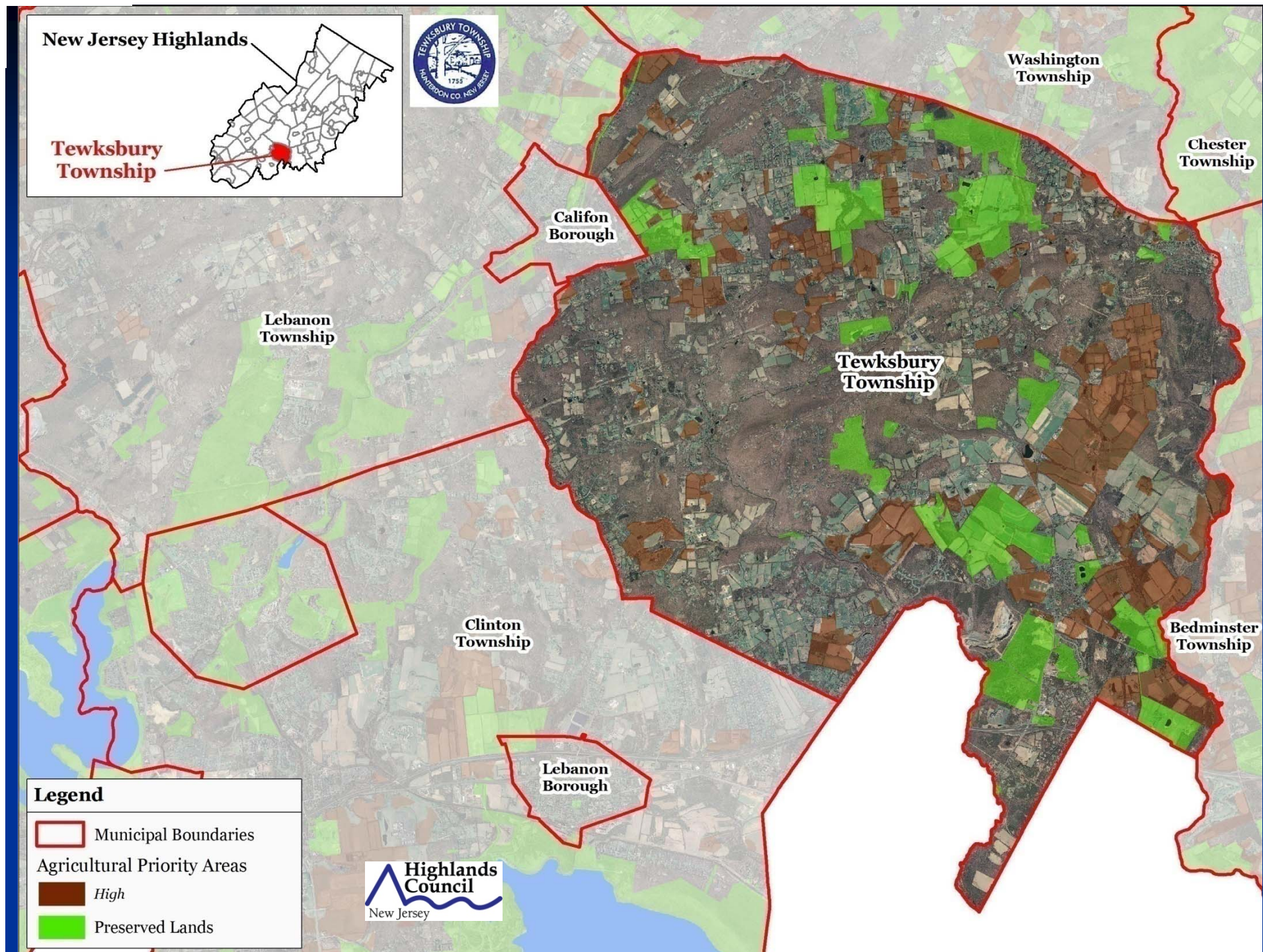




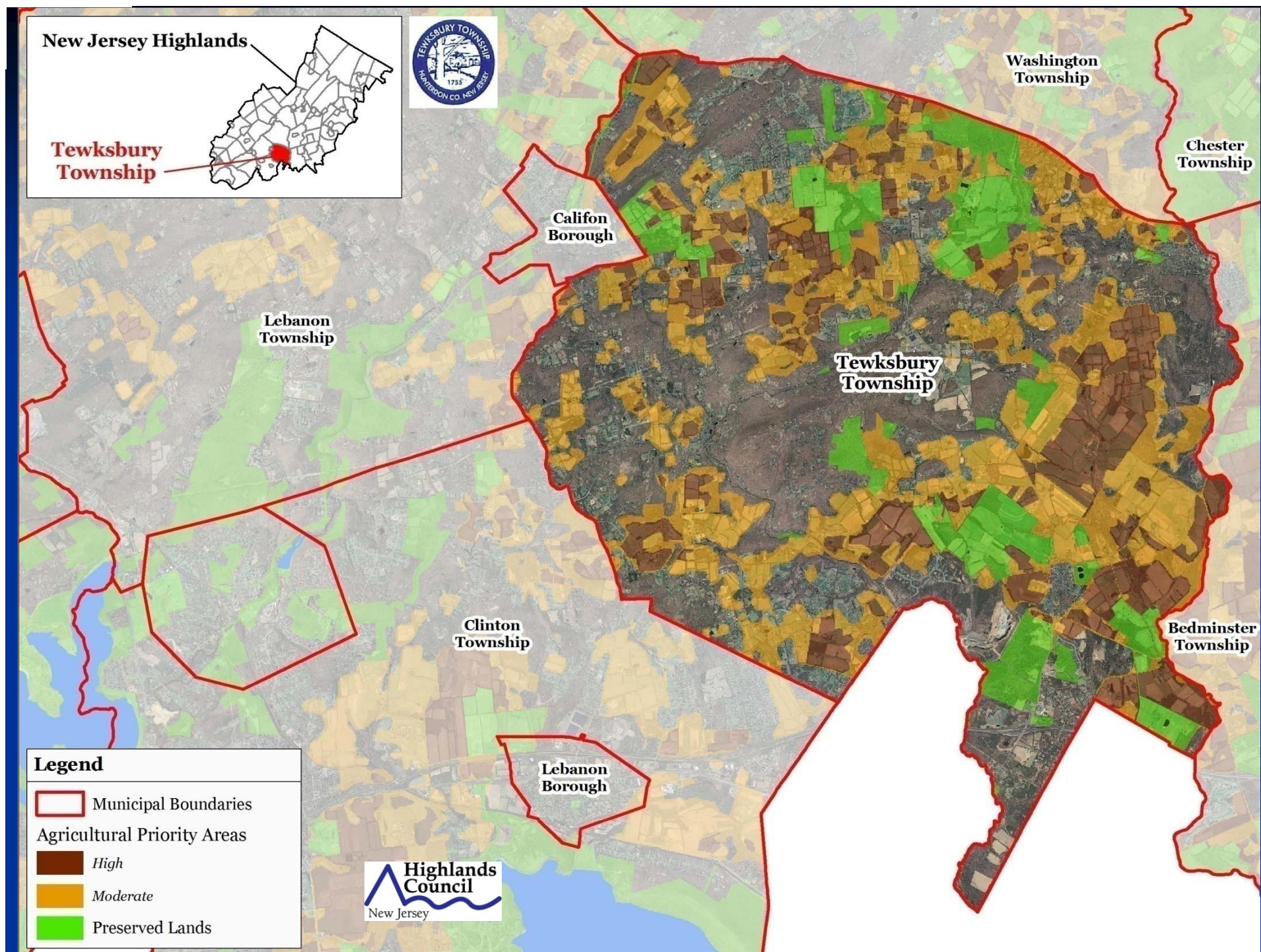














# Tewksbury Township

## Hunterdon County, New Jersey



### PETITION FOR PLAN CONFORMANCE ADMINISTRATIVE RECORD

12/8/09	Petition for Plan Conformance Submitted
3/31/10	Petition Deemed Administratively Complete
4/9/10	Petition Posted to Highlands Council Website
8/27/10	Draft Consistency Report Sent to Municipality
1/20/11	Final Draft Report Posted to Highlands Council Website
2/4/11	End of Public Comment Period (Start 1/20/11)
2/10/11	Final Report Posted to Highlands Council Website
2/17/11	Highlands Council Public Hearing

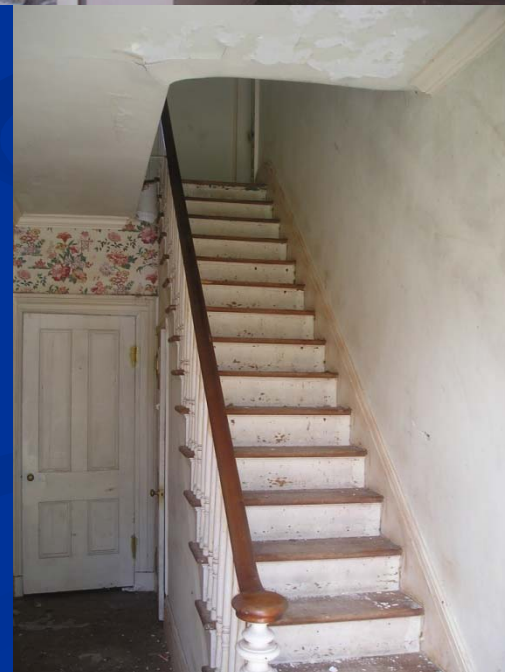
# Highlands Municipal Build-Out Report – Modules 1 & 2

- The Report uses a Limiting Factor Analysis to examine Land-Based, Resource-Based, and Utility-Based Capacities.
- The Highlands Municipal Build-Out Report for Tewksbury Township was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition.
- The Build-Out Report was updated since first issued to the municipality based upon information provided at a later date. The date of the Highlands Municipal Build-Out Report is August 2009.
- Staff RMP Consistency Finding: CONSISTENT



# Housing Plan – Module 3

- Summary of Tewksbury Township's Fair Share Obligation
  - Rehabilitation Share: None
  - Prior Round Obligation: 119 Units
  - Growth Share Obligation: 85 Units
- Summary of Tewksbury Township's Fair Share Plan
  - Municipal Rehabilitation Program: None
  - Prior Round Credits: 119 Anticipated through 6 completed projects and 1 project to be completed.
  - Growth Share Credits: 102 credits anticipated through a completed Regional Contribution Agreement, 19 completed accessory apartments and 5 additional projects to be completed.
- Staff RMP Consistency Finding: CONSISTENT







# Environmental Resource Inventory

## Module 4

- Describes & Illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality
- Tewksbury's Submittal Based on Highlands Council Model Environmental Resource Inventory
  - ❖ All Applicable Narrative Portions Retained
  - ❖ All Applicable Exhibits Included
- Staff RMP Consistency Finding: CONSISTENT



# Master Plan Highlands Element

## Module 5

- Incorporates RMP Goals & Objectives into local planning; provides basis for effectuation of RMP
- Tewksbury's Submittal Based on Highlands Council Model
  - ❖ All Applicable Narrative Portions Retained
  - ❖ All Applicable Exhibits Provided
- Staff RMP Consistency Finding: CONSISTENT

# Highlands Area Land Use Ordinance

## Module 6

- Sets forth regulatory provisions that protect Highlands Resources and effectuate the policies, goals, and objectives of RMP at the local level.
- Tewksbury's Submittal Based on Highlands Council Model
  - ❖ All Applicable Narrative Portions Retained
  - ❖ All Applicable Exhibits Provided by the Highlands Council (Parcel-Based)
- Staff RMP Consistency Finding: CONSISTENT



# Municipal Petition for Plan Conformance

## Module 7

- Consists of all Petition Supporting Materials: Petitioning Resolution/Ordinance, Self-Assessment Report, List of Current Planning Documents, Highlands Implementation Plan & Schedule
- Tewksbury's Submittals Based on Highlands Council Models
  - ❖ Resolutions (Planning Area and Preservation Area) Complete
  - ❖ Self-Assessment Report Accurate & Complete
  - ❖ Highlands Implementation Plan and Schedule Complete
- Staff RMP Consistency Finding: CONSISTENT

# **Tewksbury Township's Petition for Plan Conformance Public Comments Received**

- The public comment period for Tewksbury Township's Petition for Plan Conformance opened January 20, 2011, and closed February 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:
  - Kevin Walsh, Esq., on behalf of the Fair Share Housing Council
  - Hank Klumpp, Property Owner
  - Robin Love, President, Resident's Alliance for Neighborhood Preservation, Inc.
  - George C. Cassa, Alliance for Historic Hamlets
  - Basil Hone and Frances Spann, Citizens to Save Tewksbury
  - Julia Somers, New Jersey Highlands Coalition



# Tewksbury Township's Petition for Plan Conformance

## Public Comments Received

### Comments submitted by Fair Share Housing Center:

- **Summary of Comments:** The Fair Share Housing Center objects to reliance on the Highlands build-out numbers for calculating the township's fair share obligation of affordable housing.
- **Summary of Response:** These comments specifically relate to matters that are pending before the Appellate Division in litigation filed by Fair Share Housing Center. The Petition should be approved conditioned upon achieving and retaining compliance with the Fair Housing Act. In addition, the response clarifies that the Build-out Report is based upon the Highlands Act and RMP Requirements.

# Tewksbury Township's Petition for Plan Conformance

## Public Comments Received

### Comments submitted by Hank Klumpp:

- **Summary of Comments:** Mr. Hank Klumpp submitted comments regarding inclusion of Tewksbury in the Highlands, the scientific basis for mapping, the establishment of the Preservation Area boundary, and land owner equity issues.
- **Summary of Response:** Tewksbury Township was first identified in the Highlands Region mapping as a part of the 2001 New Jersey State Development and Redevelopment Plan. The 2001 State Plan analyzed the significant resources of the Highlands and concluded that nearly 70 percent of the area is mapped as Environmentally Sensitive. Extensive federal studies conducted by the United States Forest Service in 1992 and 2002 led to the federal Highlands Conservation Act signed by President Bush in 2004. The delineation of the Preservation Area boundary was an action of the Legislature and the Council has no authority to modify the boundary. The establishment and boundary of the Preservation Area were supported in two decisions: OFP, L.L.C. v. State and County of Warren v. State.



# Tewksbury Township's Petition for Plan Conformance

## Public Comments Received

### Comments submitted by Hank Klumpp:

- **Summary of Response (continued):** With respect to landowner equity, the Highlands Act includes a provision for a “strong and significant commitment by the State to fund the acquisition of exceptional natural resource value lands.” The Highlands Council recently completed a report that found that since July 2008, 7,690 acres have been added as preserved lands. The Highlands Region presently has a total of 290,214 preserved acres. The report concluded that since 2008 SADC Farmland Preservation Program has paid an average of \$9,816 per acre for development rights in the Preservation Area and \$14,288 per acre in the Planning Area . Under the Green Acres Program in the Preservation Area, properties have averaged \$10,265 per acre, while in the Planning Area properties have averaged \$19,957 per acre. Finally, under the Highlands TDR Program, for those Preservation Area properties that have received an allocation of HDCs, the average per acre land value is \$10,135.

# **Tewksbury Township's Petition for Plan Conformance Public Comments Received**

**Comments submitted by Robin Love, President, Resident's Alliance for Neighborhood Preservation, Inc. ; George C. Cassa, Alliance for Historic Hamlets; Basil Hone and Frances Spann, Citizens to Save Tewksbury.**

- **Summary of Comments:** Letters of support were submitted for the Township's Petition for plan conformance, particularly supporting the removal of the Route 78 Sewer Service Area from Tewksbury Township's Wastewater Management Plan as being consistent with the Township's Petition and the RMP.
- **Summary of Response:** The Highlands Council acknowledges the support for the Township's Petition for Plan Conformance and will continue to work with the Township to develop a Wastewater Management Plan consistent with the Goals, Policies and Objectives of the RMP.



# Tewksbury Township's Petition for Plan Conformance Public Comments Received

## Comments submitted by Julia Somers, New Jersey Highlands Coalition:

- **Summary of Comments:** The Coalition supports Tewksbury Township's Petition for plan conformance and supports the recommendation that jurisdiction over Critical Habitat areas of the Highlands Region will rest in large part with the Highlands Council and the NJDEP.
- **Summary of Response:** The Highlands Council acknowledges the New Jersey Highlands Coalition's support for the Township's Petition for plan conformance and recommendation for jurisdiction for Critical Habitat areas.
- **Comment:** The New Jersey Highlands Coalition notes that the Township has elected not to include a Historic, Cultural & Archaeological Resources Ordinance and supports the Township's future adoption of the Ordinance.
- **Response:** Tewksbury has an existing Historic Preservation Commission and protective ordinances. They also have a Scenic Roads Commission. The Township can augment these protections through Plan Conformance.

# Tewksbury Township's Petition for Plan Conformance

## Public Comments Received

Comments submitted by Julia Somers, New Jersey Highlands Coalition  
(continued):

- **Summary of Comment:** The New Jersey Highlands Coalition wanted to confirm that, in the Planning Area, the RMP prohibits the creation or extension of public water supply systems and wastewater collection and treatment systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-Zones until or unless authorized by the Highlands Council.
- **Summary of Response:** In the Planning Area – Protection Zone, Conservation Zone and Environmentally Constrained Sub-Zones, new, expanded or extended public water systems, wastewater collection and treatment systems, and community on-site treatment facilities are permitted only where approved by the Highlands Council and included within a NJDEP-approved Wastewater Management Plan.



# **Petition Disposition**

## **Tewksbury Township's Petition for Plan Conformance**

Staff Recommendation: **APPROVE WITH CONDITIONS**

### **PROPOSED 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.**

# Petition Disposition

## Tewksbury Township's Petition for Plan Conformance

Staff Recommendation: **APPROVE WITH CONDITIONS**

### PROPOSED CONDITIONS, Continued

- **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**
  - **Green Building/Environmental Sustainability/Alternative Energy Plan**
  - **Right to Farm Ordinance**
  - **Agricultural Retention Plan**
  - **Stream Corridor Protection & Restoration Plan**



# **Tewksbury Township's Petition for Plan Conformance Previous Highlands Protection Fund Grants**

- **Fair Share Planning Grant** for the development of a Housing Element and Fair Share Plan is complete.
- **Initial Assessment Grant** is complete.
- **Transfer of Development Rights Feasibility Grant** is ongoing.

# **Tewksbury Township's Petition for Plan Conformance Future Highlands Protection Fund Grants**

- **Highlands Implementation Plan and Schedule** – Grant funding is proposed for the following:
  - **Water Use and Conservation Management Plan** for an additional subwatershed, with the Highlands Council serving as the lead for this project.
  - **Stream Corridor Restoration/Protection Plan** to address existing stream restoration needs, potential stream impacts of future land uses, and mitigation options beyond those contained within the Highlands Land Use Ordinance.
  - **Habitat Conservation & Management Plan** in recognition of the large areas of Critical Habitat in the Township, and the potential for both unavoidable disturbance and restoration opportunities.



# **Tewksbury Township's Petition for Plan Conformance Future Highlands Protection Fund Grants**

- **Highlands Implementation Plan and Schedule** – Grant funding is proposed for the following:
  - **Agricultural Retention Plan** – To plan for methods to improve the sustainability and profitability of farming in the Township, recognizing the large agricultural area.
  - **Green Building/Environmental Sustainability/Alternative Energy Plan** – To help the Township identify and plan for issues regarding on-site alternative energy facilities and green building options.

# Council Deliberation



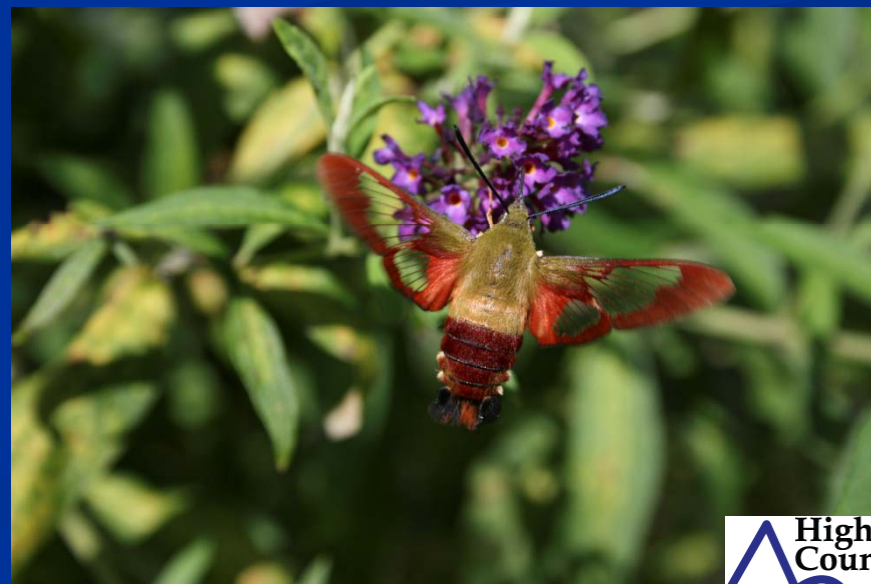
## Tewksbury Township



# Public Hearing

## Rockaway Township Petition for Plan Conformance

# Introduction to Rockaway Township





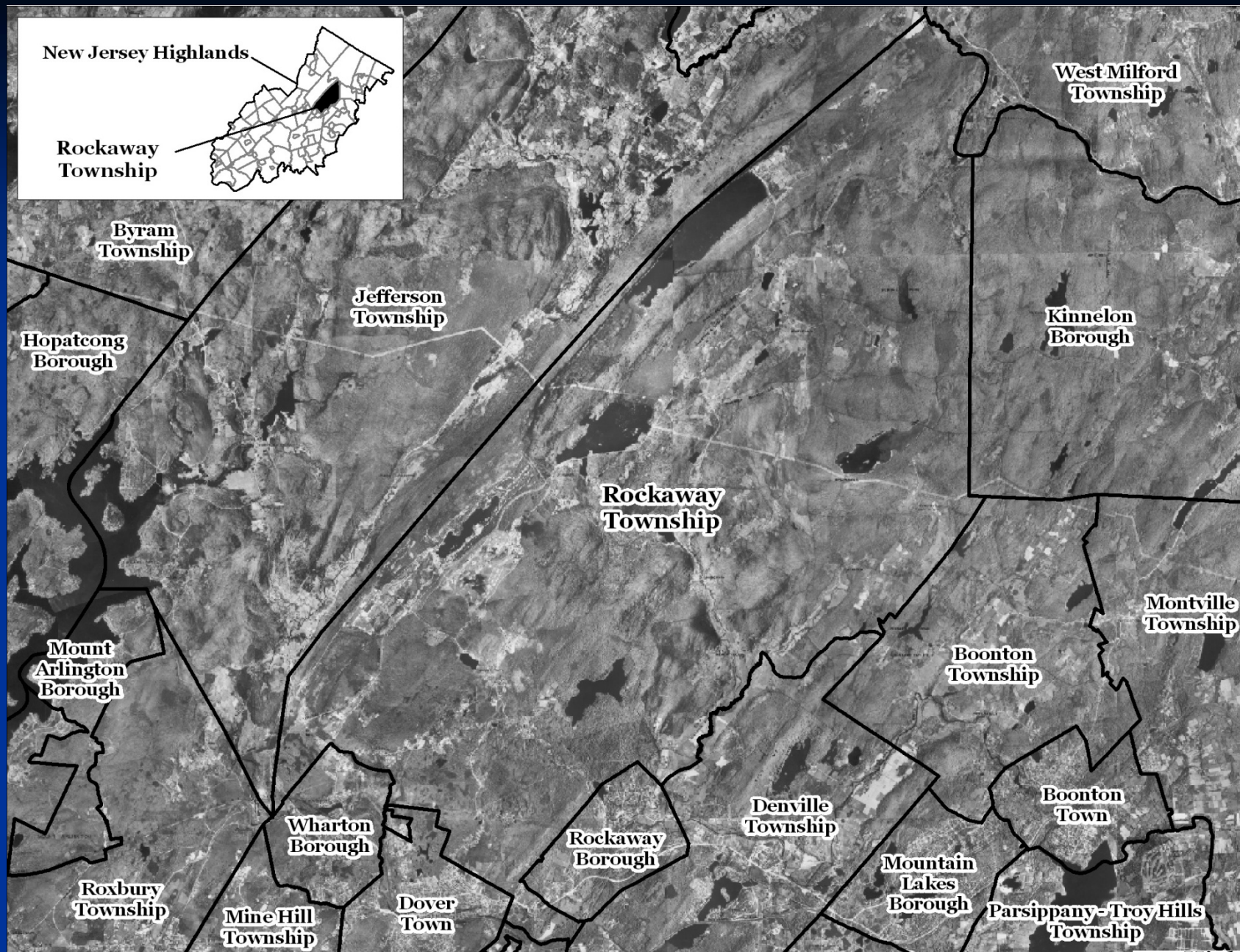
# Rockaway Township

## Background Statistics

- Incorporated: 1844
- Population: 25,454
- Land Area: 29,371 acres / 45.8 sq. mi.
- Preserved Lands: 11,513 acres
- Wetlands: 3,203 acres
- Total Forest: 20,288 acres
- Farmland: 145 acres







## Rockaway Township - 1930



# Rockaway Township

## Significant Highlands Statistics

- Preservation Area Lands: 17,789 acres – 61%
- Planning Area Lands: 11,582 acres – 39%
- Protection Zone – 23,244 acres – 79.1% (Roads 3.3%)
- Existing Community Zone – 5,144 acres – 17.5%
- Conservation Zone – 0 acres – 0%
- Highlands Open Water Protection – 16,629 acres – 56%
- Forest Resource Area – 25,951 acres – 88%
- Conservation Priority Areas – 10,985 acres – 37%
- Special Environmental Zone – 1,769 acres – 6.0%

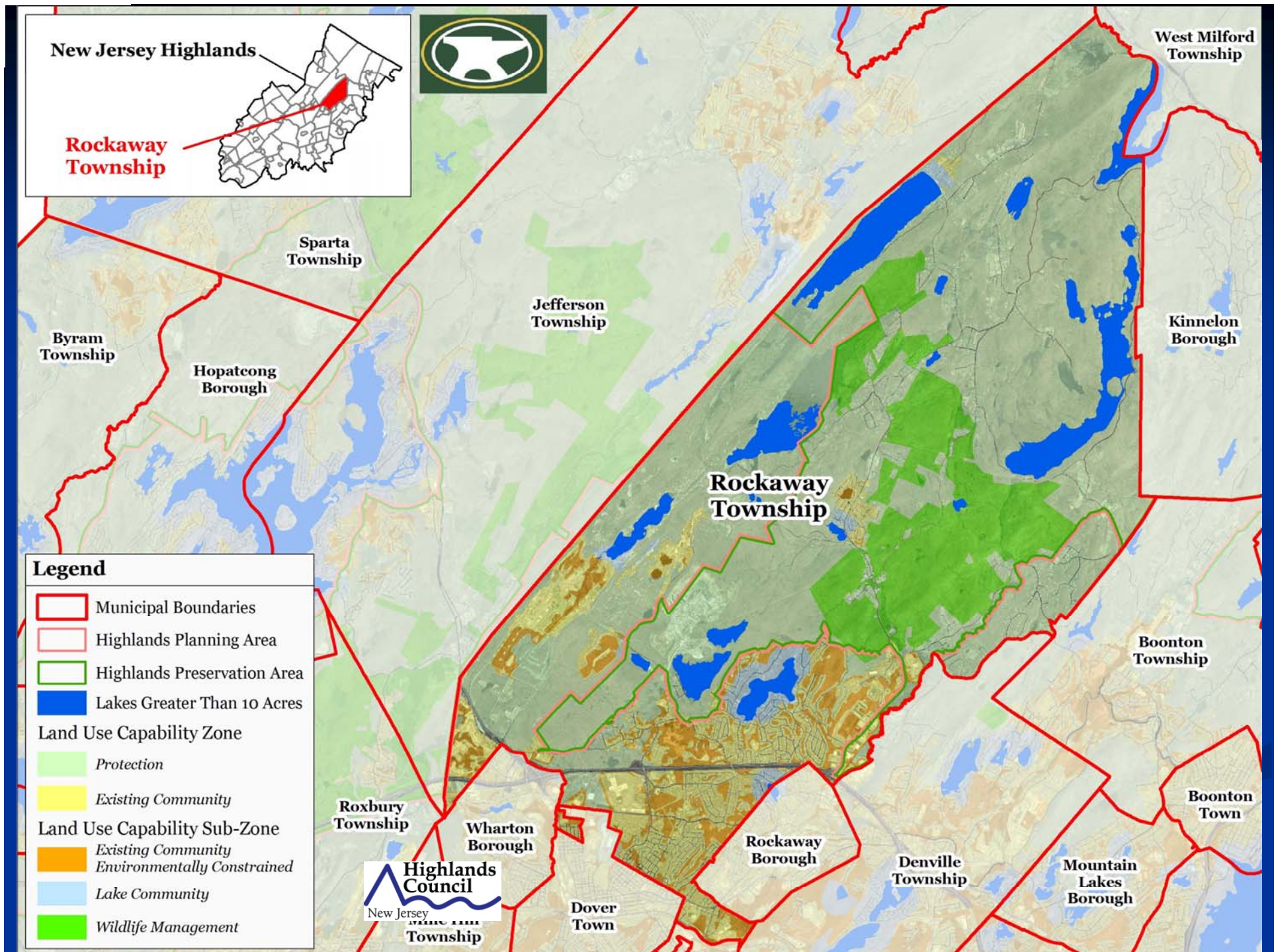
# Rockaway Township

## Background Statistics – Land Use

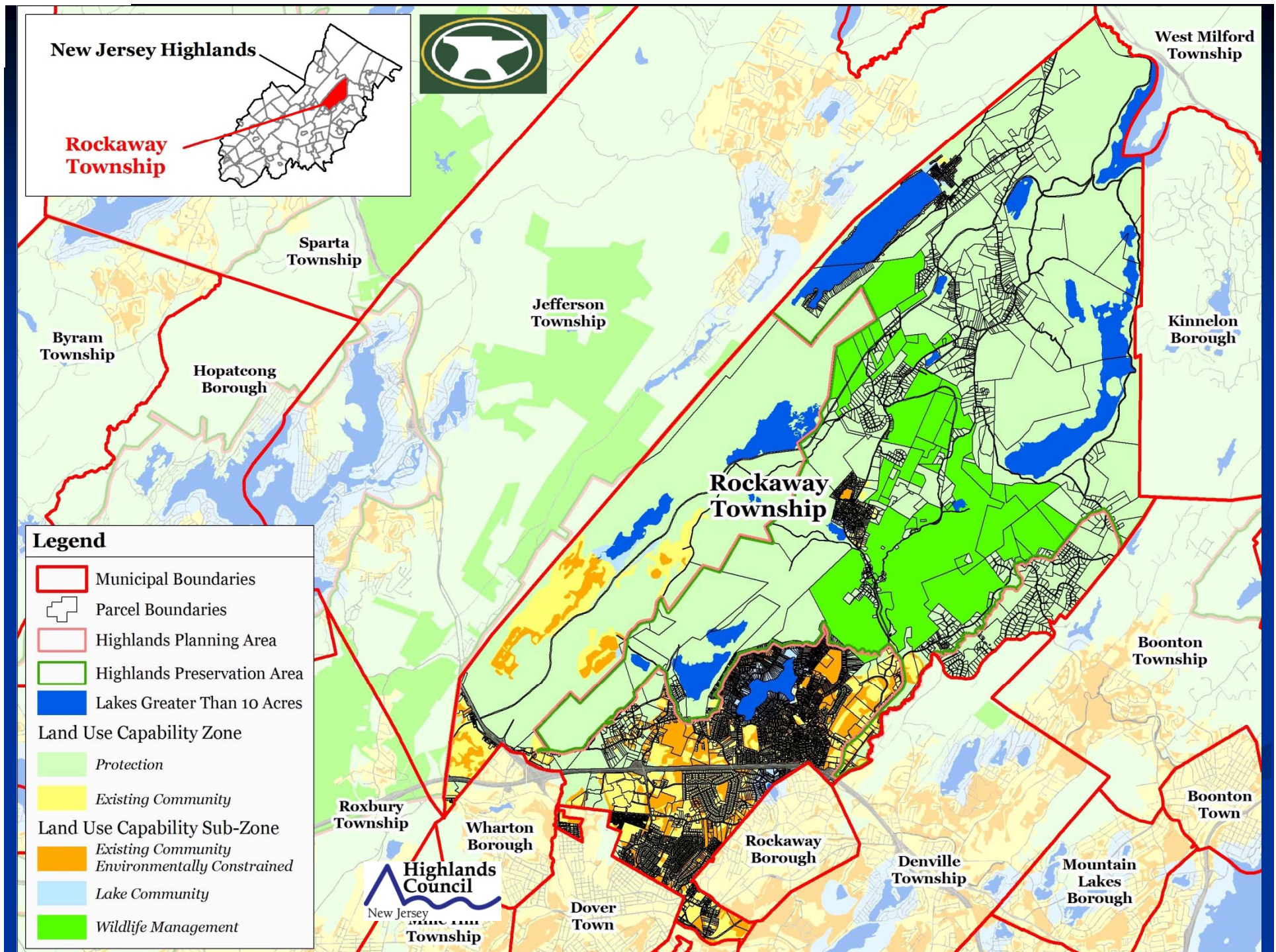


NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	2,236	1,194	11.7%
Commercial (Retail)	361	52	1.4%
Industrial & Transportation & Utilities	340	243	2.0%
Agriculture (Crops & Plantations)	28	124	0.5%
Recreational Lands (Public & Private)	185	163	1.2%
Military	727	0	2.5%
Extractive Mining	55	340	1.3%
Other Urban or Built-Up Land	490	91	2.0%
<b>Subtotal Developed Lands</b>	<b>4,422</b>	<b>2,207</b>	<b>22.6%</b>
Mixed Forest	4,923	11,955	57.5%
Shrub & Scrub	100	123	0.8%
Mixed Wetlands	1,436	1,767	10.9%
Barren Lands	73	21	0.3%
Water	628	1,715	8.0%
<b>Subtotal Natural Lands</b>	<b>7,160</b>	<b>15,582</b>	<b>77.4%</b>
<b>Total</b>	<b>11,582</b>	<b>17,789</b>	<b>100.0%</b>

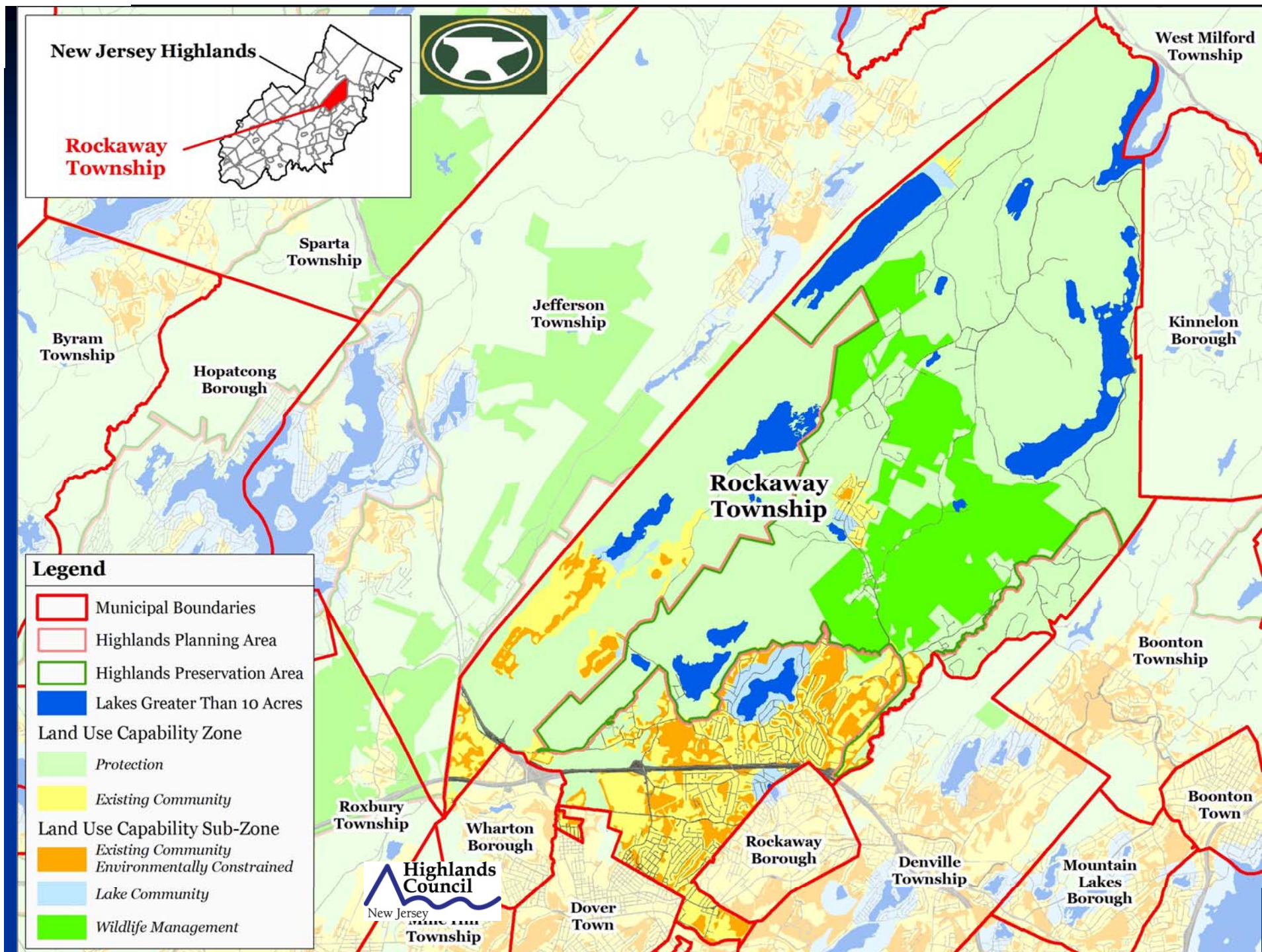




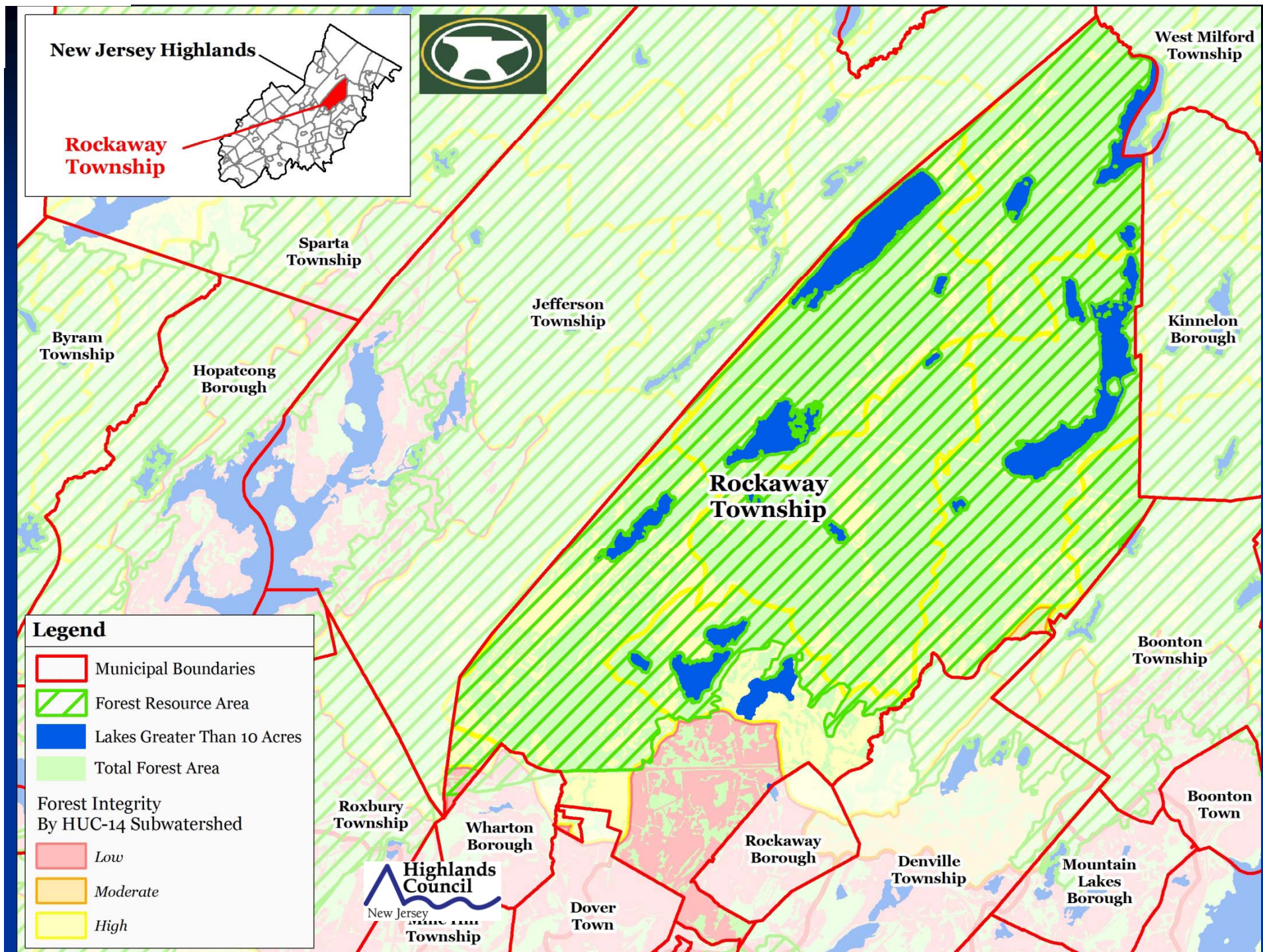




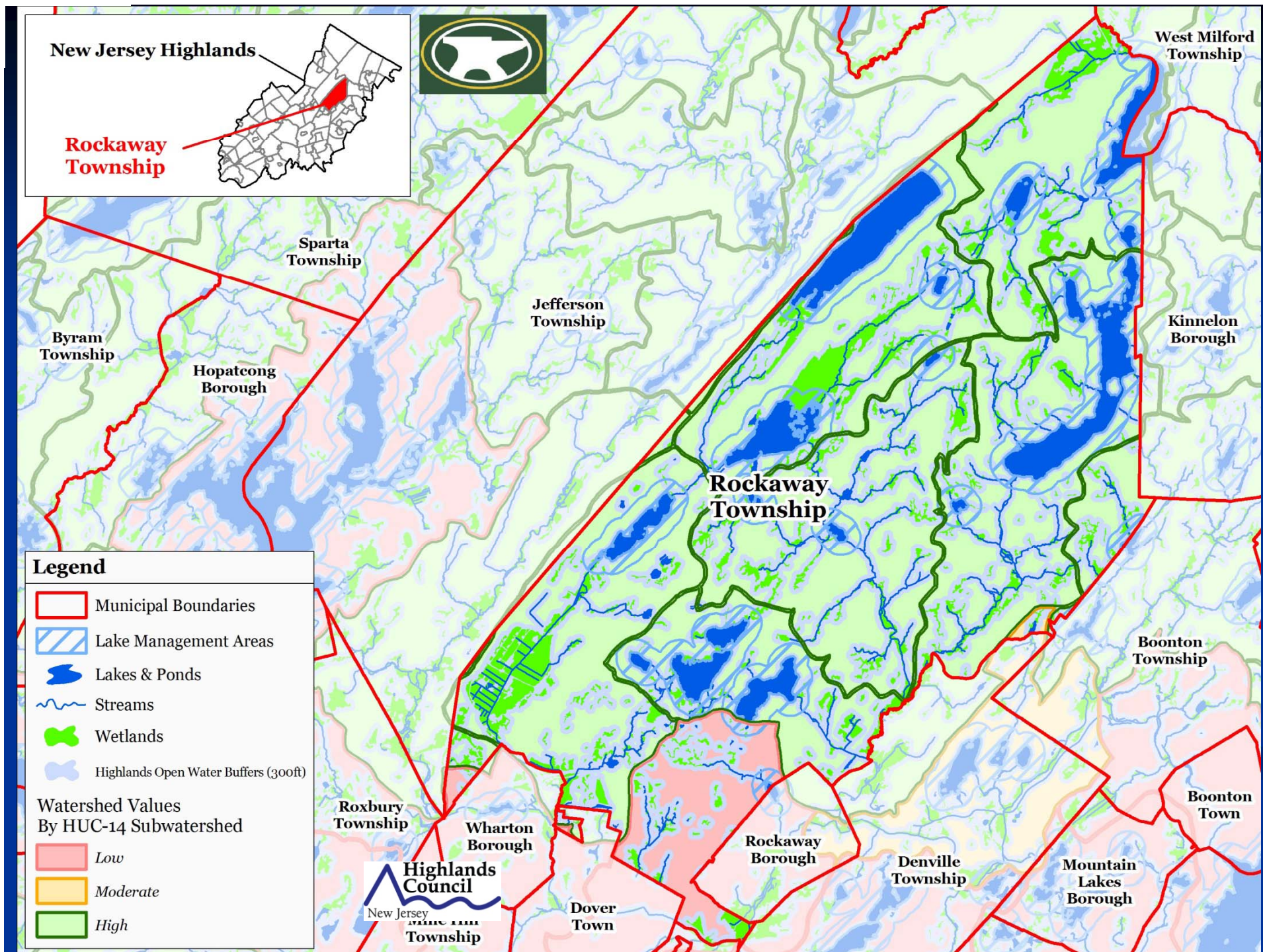




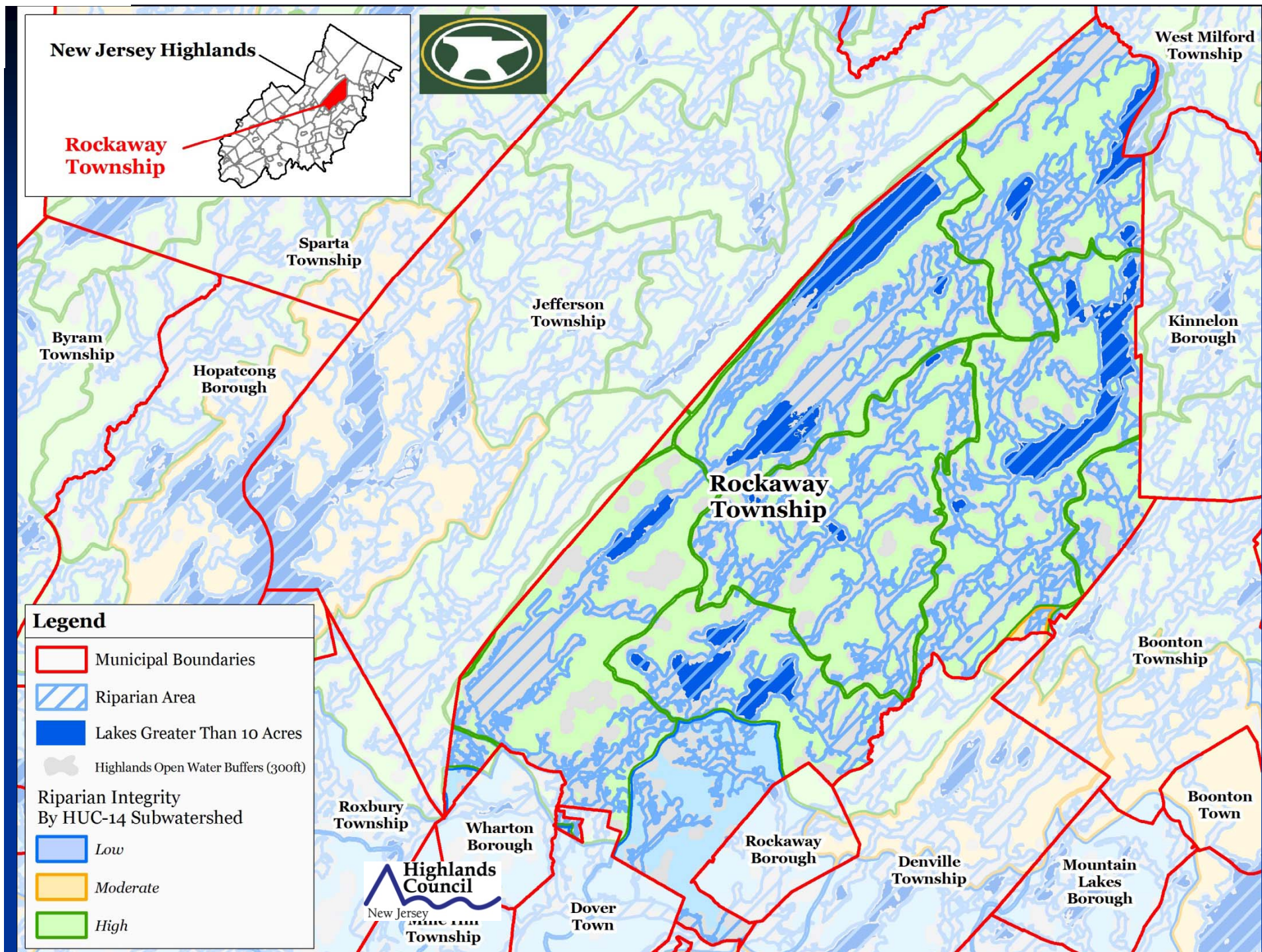




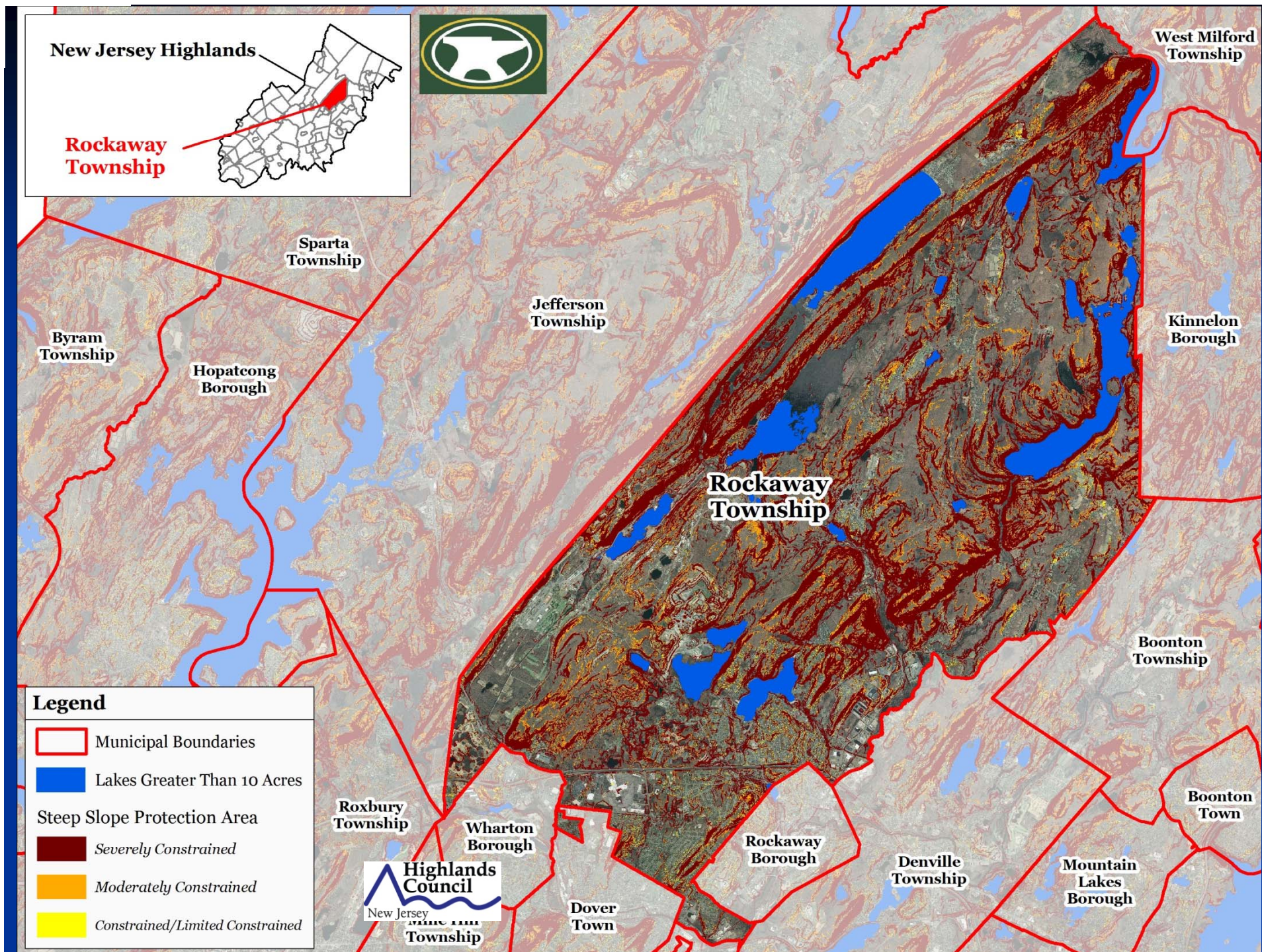




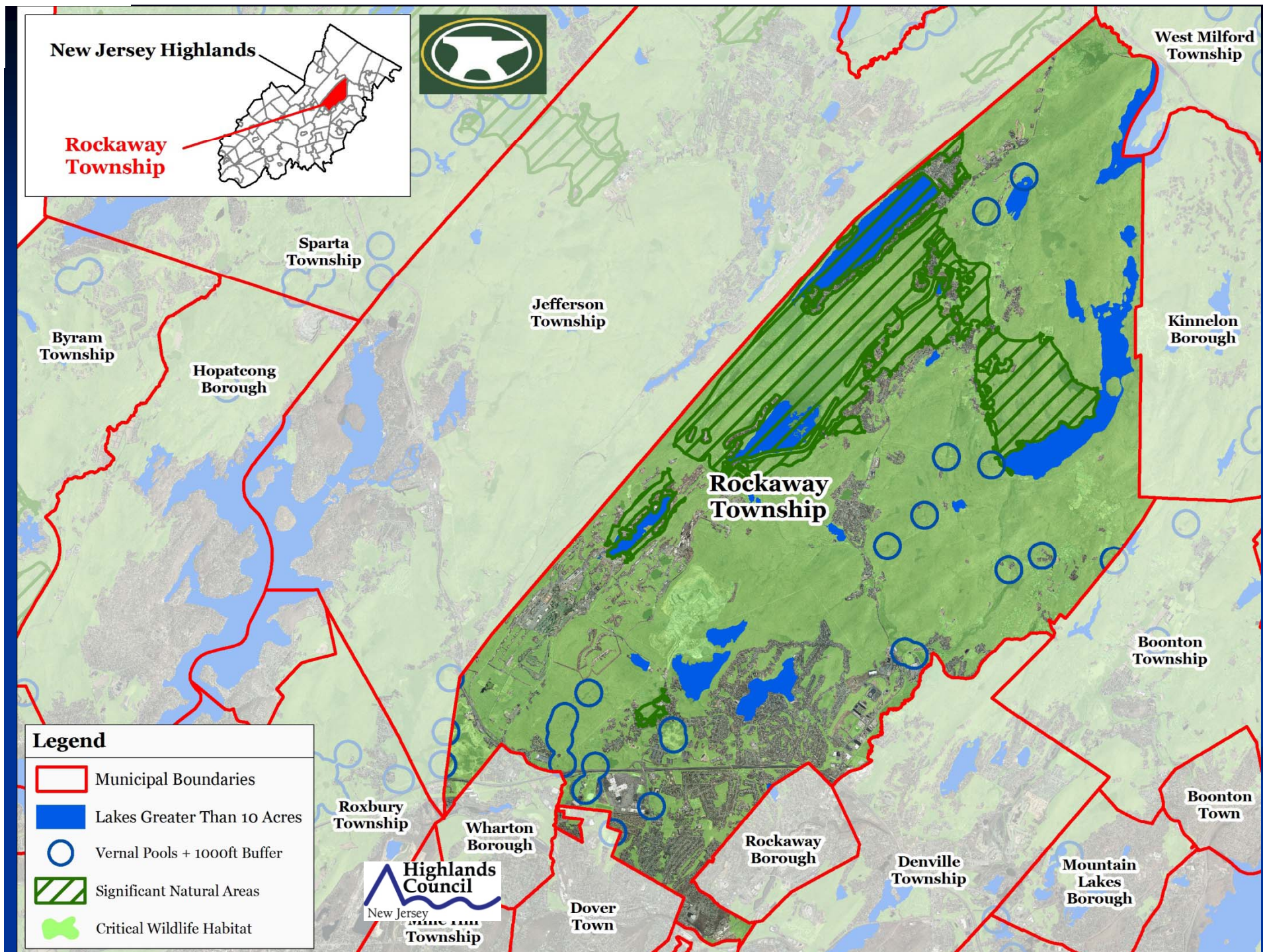




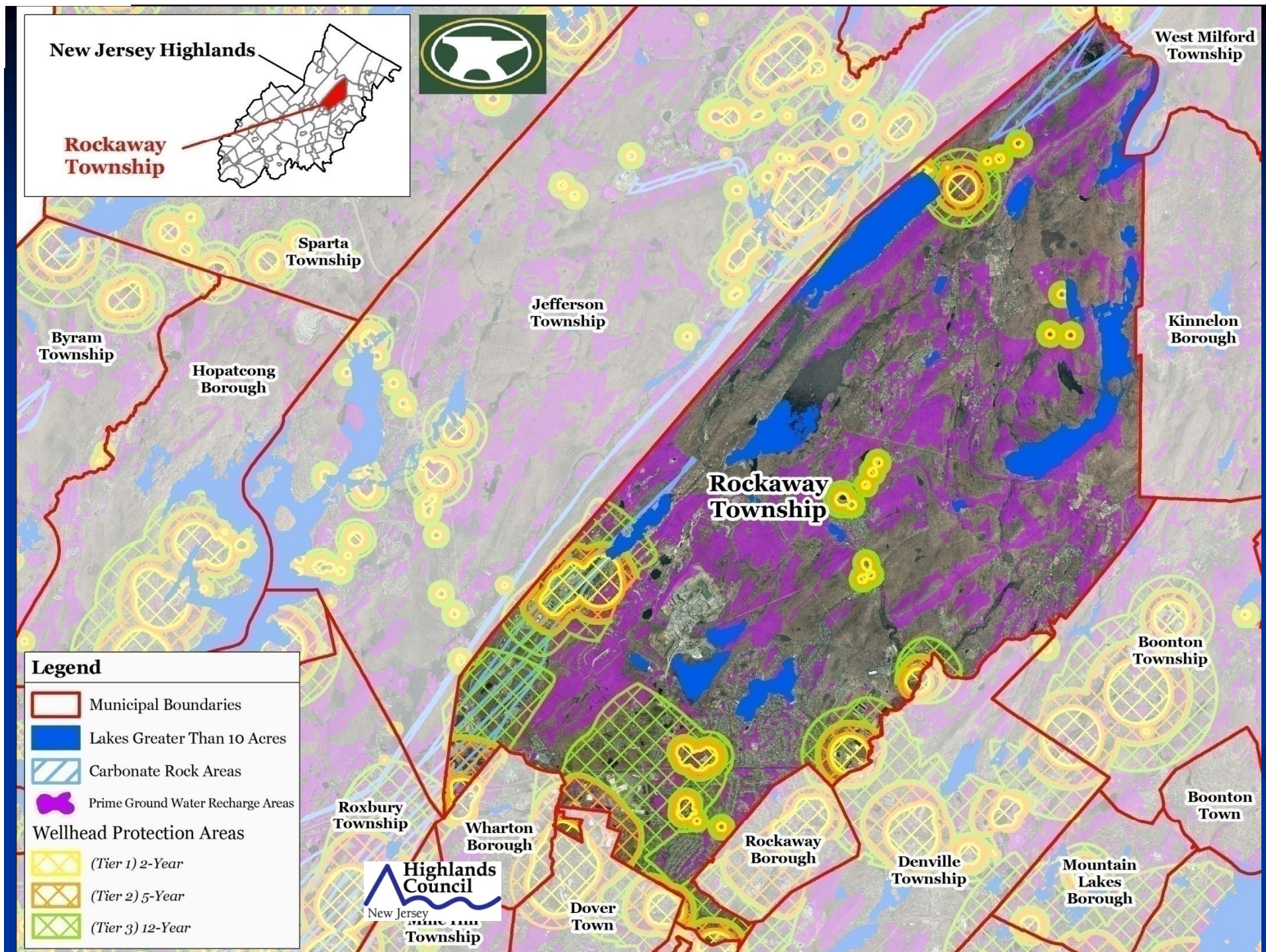




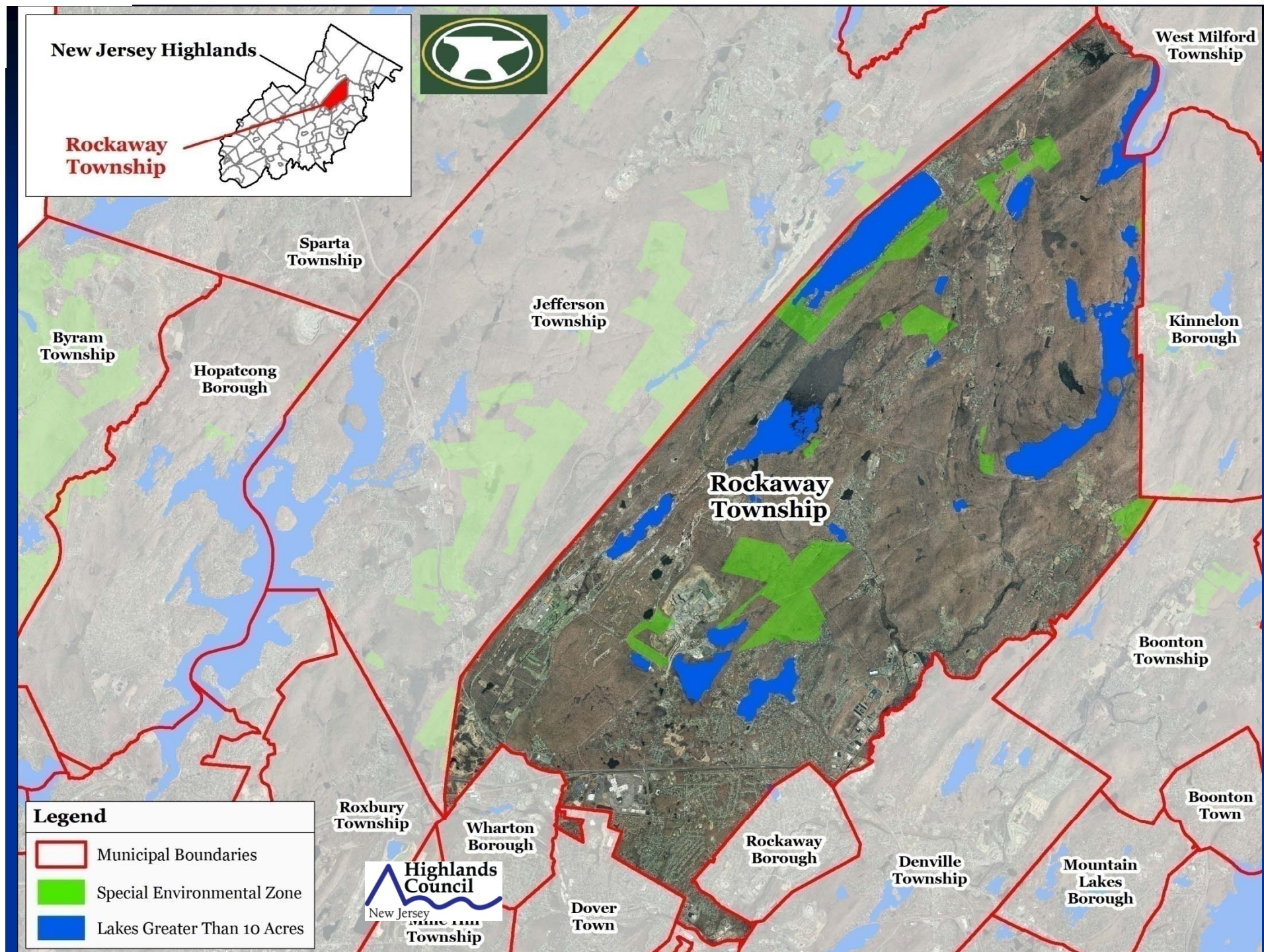




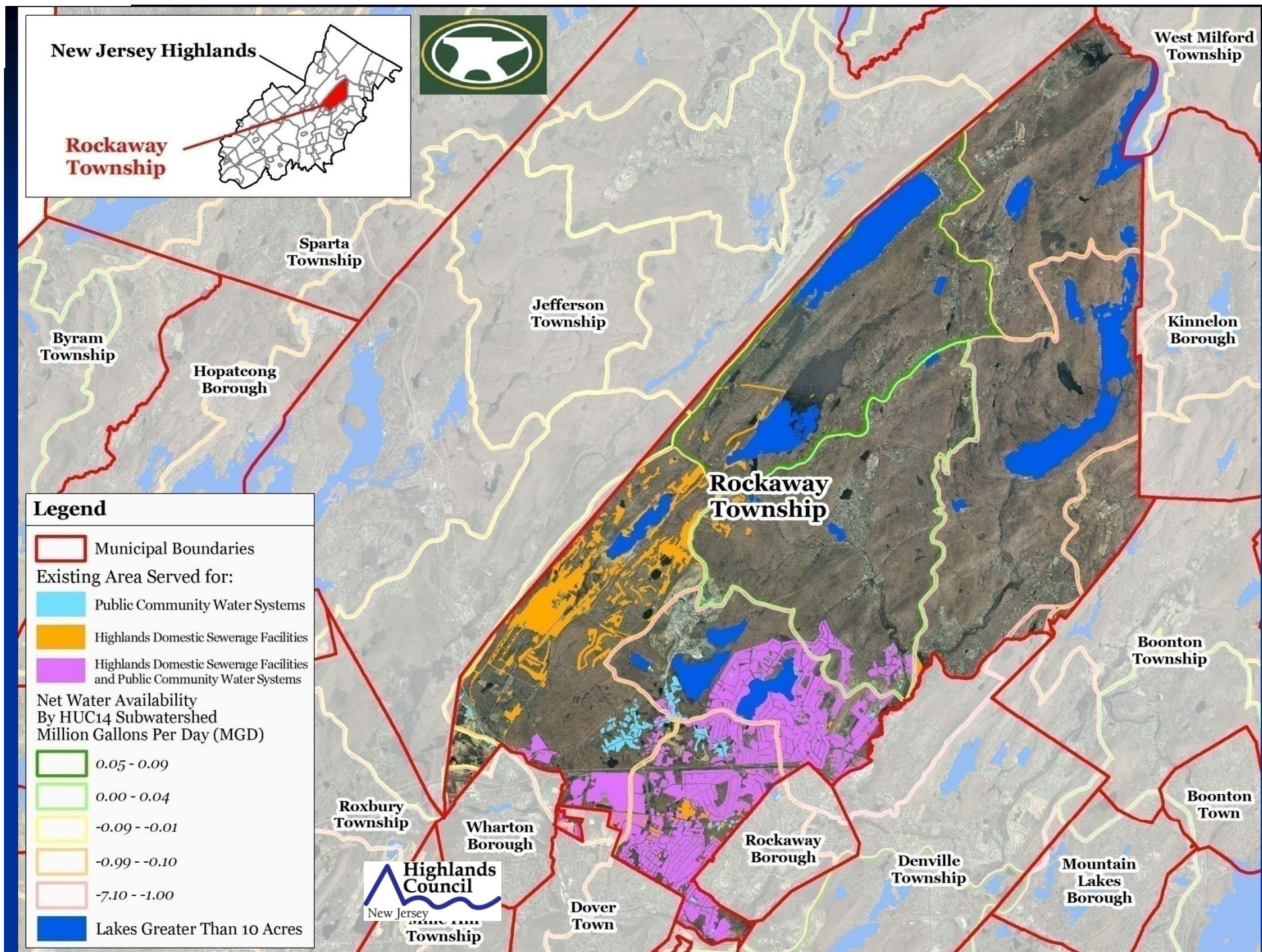




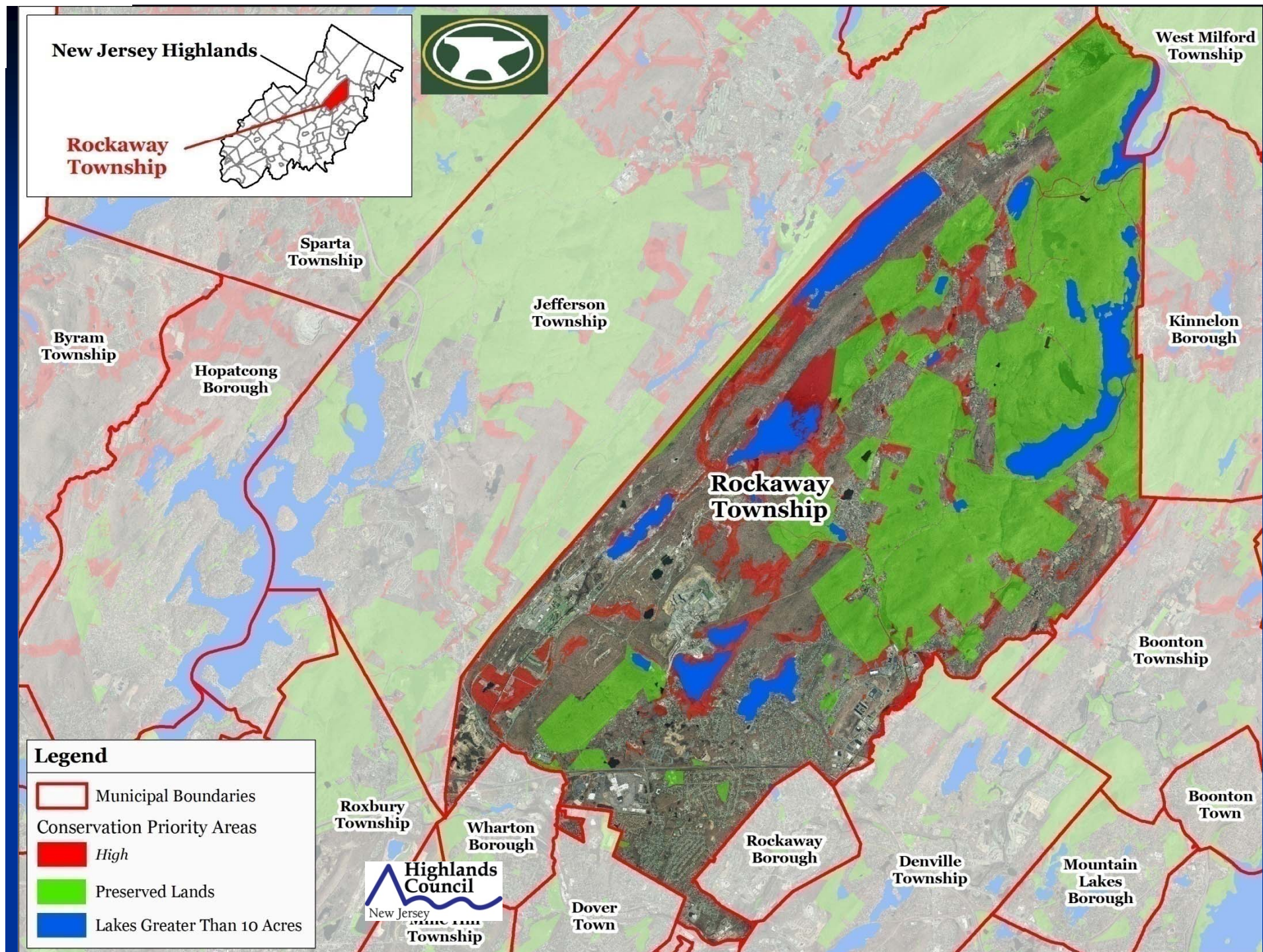




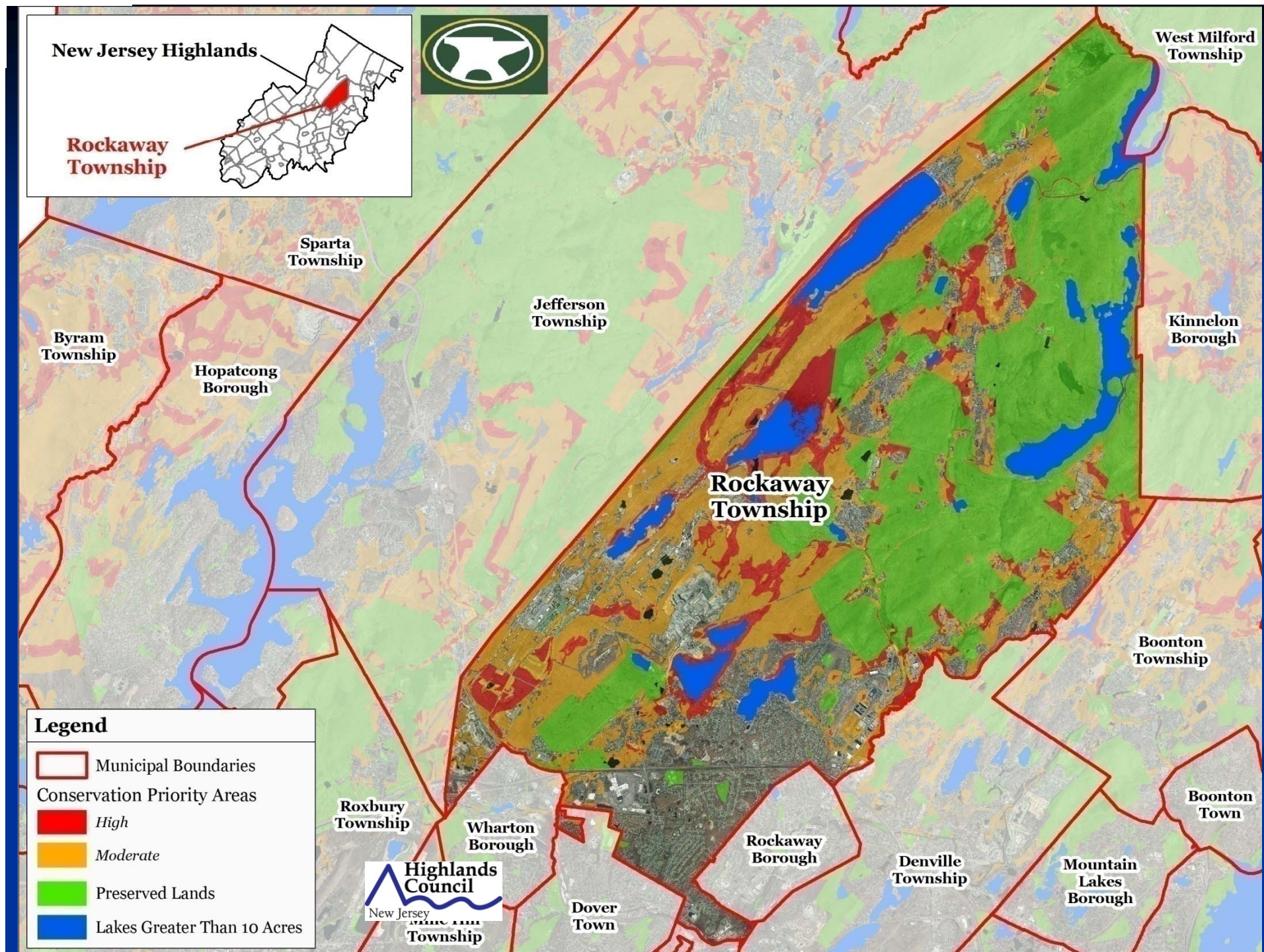














# Rockaway Township

Morris County, New Jersey



## PETITION FOR PLAN CONFORMANCE ADMINISTRATIVE RECORD

12/8/09	Petition for Plan Conformance Submitted
1/22/10	Petition Deemed Administratively Complete
2/1/10	Petition Posted to Highlands Council Website
8/17/10	Draft Consistency Report Sent to Municipality
12/15/10	Final Draft Report Posted to Highlands Council Website
1/18/11	End of Public Comment Period (Start 12/15/10)
2/10/11	Final Report Posted to Highlands Council Website
2/17/11	Highlands Council Public Hearing



# Highlands Municipal Build-Out Report – Modules 1 & 2

- The Report uses a Limiting Factor Analysis to examine Land-Based, Resource-Based, and Utility-Based Capacities.
- The Highlands Municipal Build-Out Report for Rockaway 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 and a revised version was posted to the Highlands Council website on August 11, 2009.
- Staff RMP Consistency Finding: CONSISTENT

# Housing Plan – Module 3

- Summary of Rockaway Township's Fair Share Obligation
  - Rehabilitation Share: 42 Units
  - Prior Round Obligation: 370 Units
  - Growth Share Obligation: 147 Units
- Summary of Rockaway Township's Fair Share Plan
  - Municipal Rehabilitation Program – To be funded through the Township's Affordable Development Fee Fund. Anticipated Credits: 42
  - Two Alternatives are Proposed to meet the Prior Round and Growth Share Obligations.
    - Alternative A proposes 370 Prior Round Credits and 160 Growth Share Credits.
    - Alternative B proposes 375 Prior Round Credits and 148 Growth Share Credits.
- Staff RMP Consistency Finding: CONSISTENT (for both Alternatives)



# Environmental Resource Inventory

## Module 4

- Describes & Illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality
- Rockaway's Submittal Based on Highlands Council Model Environmental Resource Inventory
  - ❖ All Applicable Narrative Portions Retained
  - ❖ All Applicable Exhibits Included
- Staff RMP Consistency Finding: CONSISTENT

# Master Plan Highlands Element

## Module 5

- Incorporates RMP Goals & Objectives into local planning; provides basis for effectuation of RMP
- Rockaway's Submittal Based on Highlands Council Model
  - ❖ All Applicable Narrative Portions Retained
  - ❖ All Applicable Exhibits Provided
- Staff RMP Consistency Finding: CONSISTENT



# Highlands Area Land Use Ordinance

## Module 6

- Sets forth regulatory provisions that protect Highlands Resources and effectuate the policies, goals, and objectives of RMP at the local level.
- Rockaway's Submittal Based on Highlands Council Model
  - ❖ All Applicable Narrative Portions Retained
  - ❖ All Applicable Exhibits Provided by the Highlands Council (Parcel-Based)
- Staff RMP Consistency Finding: CONSISTENT

# Municipal Petition for Plan Conformance

## Module 7

- Consists of all Petition Supporting Materials: Petitioning Resolution/Ordinance, Self-Assessment Report, List of Current Planning Documents, Highlands Implementation Plan & Schedule
- Rockaway's Submittals Based on Highlands Council Models
  - ❖ Resolutions (Planning Area and Preservation Area) Complete
  - ❖ Self-Assessment Report Accurate & Complete
  - ❖ Highlands Implementation Plan and Schedule Complete
- Staff RMP Consistency Finding: CONSISTENT



## Rockaway Township's Petition for Plan Conformance Public Comments Received

- The public comment period for Rockaway Township's Petition for Plan Conformance opened December 15, 2010, and closed January 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 From:** Guliet D. Hirsch, Esq., Archer & Greiner, representing Pondview Estates; John T. Chadwick, IV, P.P., as submitted by Guliet Hirsch, Esq., on behalf of Pondview Estates; and Steven Firkser, Esq., Greenbaum, Rowe, Smith & Davis, representing Morris Commons.

# Rockaway Township's Petition for Plan Conformance

## Public Comments Received

- **Comments from** Guliet D. Hirsch, Esq., Archer & Greiner, representing Pondview Estates and regarding the Fair Share Plan.
- **Comment 1:** “Please be advised that Pondview Estates has not agreed to Alternative B, or to any reduction in the approved development capacity.”
- **Response:** The comment is noted. The matter is part of on-going litigation involving Pondview and the Township. The Highlands Council has reviewed both Alternatives and has determined both Alternatives are consistent with the Highlands Regional Master Plan for the purposes of an approval of Plan Conformance.



# Rockaway Township's Petition for Plan Conformance

## Public Comments Received

- **Comment 2:** “The only question with regard to the Pondview Estates site is the source of the water supply for the affordable housing development.”  
...“Since the Law Division of Superior Court is presently overseeing the evaluation to determine the extent of public water available for the Pondview Estates site, this Council need not take any action in this regard other than to acknowledge, as it has done at page 10 of the Final Draft Report, that water supply options other than onsite wells exist --- and do not raise RMP consistency issues.”
- **Response:** The Highlands Council acknowledges that alternatives to the provision of water service to the site are involved in ongoing litigation between Pondview and the Township. At present, a Major Modification to Rockaway Township's Water Allocation Permit has been submitted to the NJDEP. The Permit application was deemed administratively incomplete, requiring several items including a consistency determination by the Highlands Council.

# Rockaway Township's Petition for Plan Conformance

## Public Comments Received

- **Comment 2 Response Continued:** As to the consistency of any other methods to supply water to the site, the Highlands Council cannot determine consistency until those other methods are presented to the Council. The Highlands Council has an obligation to take action on this matter in accordance with the requirements of Highlands Act, at N.J.S.A. 13:20-14 and 15, which require the Highlands Council to formally review Rockaway's revised master plan (and related land use documents), including the Housing Element and Fair Share Plan, and "approve, reject or approve with conditions" the municipal Petition for Plan Conformance. As Rockaway Township's Fair Share Plan and Housing Element included the Pondview Estates site, the Highlands Council examined whether this aspect of the Fair Share Plan and Housing Element was consistent with the Highlands Regional Master Plan.



# Rockaway Township's Petition for Plan Conformance

## Public Comments Received

- **Comment from** John T. Chadwick, IV, P.P., as submitted by Guliet Hirsch, Esq., on behalf of Pondview Estates. These comments are specific to the site reviews conducted for three sites included in the Township's Fair Share Plan: Villages at Rockaway, Commons Way 3.06 and Commons Way 3.07.
- **Comment 1:** "The consistency reports for these three sites strongly conflict with the conclusion in Final Draft Report dated November 19, 2010, notwithstanding qualifying statements that the sites "do not appear to have significant consistency issues with the RMP." The conclusions are in direct conflict with the findings of these three sites contained within the RMP Consistency Report for each site and the Final Draft Report dated November 19, 2010 – Appendix B."

# Rockaway Township's Petition for Plan Conformance

## Public Comments Received

- **Response:** As noted in the Highlands Council Final Draft Consistency Review Report: “The initial Highlands Council review indicated potential RMP consistency issues with a number of the proposed sites. After meeting with the municipality, it was determined that due to the status of approvals and existing infrastructure, the RMP consistency issues were not significant enough to prevent the developments, as proposed. At this time the projects as proposed shall be considered to be viable components of the Township’s Fair Share Plan. If at any time during the Court’s review of the Fair Share Plan or during any approval process for the individual sites it is determined that any of these projects are no longer viable, then the Township will be required to provide a revised Fair Share Plan for consideration.”



# Rockaway Township's Petition for Plan Conformance

## Public Comments Received

- **Comments from** Steven Firkser, Esq., Greenbaum, Rowe, Smith & Davis. Representing Morris Commons. Comments Regarding the Fair Share Plan, Specifically the Commons Way sites.
- **Comment 1** “The Council’s reference to a potential buffer issue affecting Commons Way 3.07 is easily resolved. Although part of the property is located in the Highlands Open Water buffer area, the portion of the property where development will occur was previously disturbed, and is therefore exempt from the buffer restriction...”
- **Response:** The comment is noted. The Highlands Area Land Use Ordinance (section 6.2.5.H.2) provides for development within previously disturbed areas of Highlands Open Water Buffers in the Planning Area.

# Rockaway Township's Petition for Plan Conformance

## Public Comments Received

- **Comment 2:** “Morris Commons, LLC presently has approvals on the Commons Way 3.06 and Commons Way 3.07 properties from the Township for an office/warehouse development consisting of three industrial buildings with associated parking. ... The proposed development for affordable housing is fully consistent with both the spirit and the letter of the RMP, and should be fully supported by the Council.”
- **Response:** As noted in the Final Draft Consistency Review and Recommendations Report, it is agreed that the provision of infrastructure to the site would not require a consistency determination from the Highlands Council. The Council agrees that inclusion of the sites in the Fair Share Plan appears to be consistent with the RMP for purposes of Plan Conformance.



# Petition Disposition

## Rockaway Township's Petition for Plan Conformance

- **Municipal Project Review:** The Township has identified a proposed municipal park project located at Block 11101, Lot 44. The project has already received permits from the NJDEP. The project is located in the Planning Area. As a municipal project it is not required to receive approvals under the MLUL. The Township has requested clarification as to whether plan conformance may limit their ability to develop this project that has already been designed and received State approvals. This approval of the petition for Plan Conformance shall stipulate the advanced status of the project, and that as of the date of approval of the Township's petition for Plan Conformance, the project be deemed as having received approvals and therefore qualifies for exclusion from applicability of Highlands Council Consistency Determinations or any other impacts from the approval of Plan Conformance. The adoption of the plans and ordinances associated therewith shall not apply to this specific project.

# **Petition Disposition**

## **Rockaway Township's Petition for Plan Conformance**

Staff Recommendation: **APPROVE WITH CONDITIONS**

### **PROPOSED 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 (Superior Court). This condition requires updates on Superior Court proceedings and Council review of any proposed changes to the Fair Share Plan and Housing Element.**



# **Petition Disposition**

## **Rockaway Township's Petition for Plan Conformance**

Staff Recommendation: **APPROVE WITH CONDITIONS**

### **PROPOSED CONDITIONS, Continued**

- **Update/Development & Implementation of:**
  - **Water Use & Conservation Management Plan**
  - **Stormwater Management Plan (updates only)**
  - **Habitat Conservation and Management Plan**
  - **Highlands Redevelopment Area Planning Program**
  - **Land Preservation & Stewardship Program**
  - **Septic System Management/Maintenance Plan**
  - **Right to Farm Ordinance**
  - **Lake Restoration Management Plan, Phase I Assessment**
  - **Sustainable Economic Development Plan**

# **Rockaway Township's Petition for Plan Conformance**

## **Previous Highlands Protection Fund Grants**

- **Fair Share Planning Grant** for the development of a Housing Element and Fair Share Plan is complete.
- **Initial Assessment Grant** is complete.



# Rockaway Township's Petition for Plan Conformance Future Highlands Protection Fund Grants

- **Highlands Implementation Plan and Schedule** – Grant funding is proposed for the following:
  - **Water Use and Conservation Management Plan** for an additional subwatershed, with the Highlands Council serving as the lead for this project.
  - **Highlands Redevelopment Area Planning.** For review of areas in both the Planning and Preservation Area for potential Highlands Redevelopment Area designation.
  - Release of funding is conditioned upon approval of a scope of work by the Executive Director.

# Rockaway Township's Petition for Plan Conformance

## Future Highlands Protection Fund Grants (continued)

- **Sustainable Economic Development Plan.** To evaluate existing economic conditions, conducting surveys and outreach, conducting Strengths, Weaknesses, Opportunities & Threats analysis, and developing a draft Implementation Strategy.
- **Lake Restoration Management Plan, Phase I Assessment.** This project will help Rockaway Township and the Highlands Council determine priorities for the later development of Lake Management Plans.
- **Habitat and Conservation Management Plan.** The Township will serve as lead for this project.



# Council Deliberation



## Rockaway Township



# Highlands Council Meeting

February 17, 2011







# New Jersey Highlands Council

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## West Milford Township

The Highlands Council voted unanimously on February 17, 2011, to approve West Milford Township's Petition for Plan Conformance.

**Note:** For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer.

- [Highlands Council Resolution](#) (pdf)
- [West Milford Presentation](#) (pdf)
- [Press Release](#) (pdf)
- [Pictures](#) (pdf)
- [Public Hearing: February 17, 2011](#)
- [West Milford Movie](#)

**Note:** To download all files, right-click on the [Petition Documents Approved by Highlands Council zip file](#) and select "Save Target As..." to save it to your computer.

- [1 - Highlands Council Resolution 2011-8 Approval of West Milford Township's Petition for Plan Conformance](#) (269 KB pdf) (posted previously)
- [1a - Highlands Final Consistency Review and Recommendations Report](#) (308 KB pdf) (posted 7/27/11)
- [1b - Highlands Implementation Plan and Schedule](#) (209 KB pdf) (posted 7/27/11)
- [2 - Highlands Municipal Build-Out Report](#) (1.1 MB pdf) (posted previously)
- [3 - Adopted Housing Element and Fair Share Plan](#) (2.59 MB pdf) (posted previously)
- [4 - Highlands Environmental Resource Inventory](#) (4.43 MB pdf) (posted previously)
- [5 - Highlands Master Plan Element](#) (515 KB pdf) (posted previously)
- [6 - Highlands Area Land Use Ordinance](#) (698 KB pdf) (posted previously)
- [6a - Highlands Area Land Use Ordinance Exhibits](#) (59 MB pdf) (posted 7/27/11)

## Previously Posted Documents

### Final Posting Prior to Public Hearing

The documents below include all edits made prior to the Highlands Council's consideration of West Milford Township's Petition for Plan Conformance, which is scheduled for its meeting on February 17, 2011.

- [Final Posting Prior to Public Hearing](#) (59 MB zip)
  - [1 - Final Consistency Review and Recommendations Report](#) (266 KB pdf)
  - [2 - Public Comments / Highlands Council Responses](#) (72 KB pdf)
  - [3 - Revised Land Use Ordinance Exhibits](#) (58 MB pdf)

### Petition Posting for Public Comment (Public Comment Period: Jan. 20, 2011 - Feb. 4, 2011)

A public hearing for West Milford Township's Petition for Plan Conformance is scheduled for the Highlands Council meeting of February 17, 2011. The [public notice for this hearing](#) includes information on how to submit public comments.

The following documents constitute the municipality's final submission to the Highlands Council and include the Final Draft Consistency Review and Recommendations Report prepared by Highlands Council staff for Highlands Council consideration of the full Petition.

**Note:** To download all files, right-click on the "Petition Posting for Public Comment" zip file and select "Save Target As..." to save it to your computer.

- [Petition Posting for Public Comment](#) (85 MB zip)
  - [1 - Final Draft Consistency Review & Recommendations Report](#) (249 KB pdf)

Final Housing Plan Submittals:

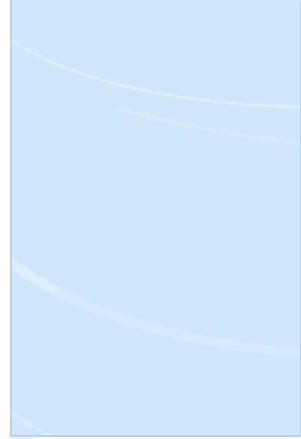
- [2 - Housing Element and Fair Share Plan May 2010](#) (3.4 MB pdf)
- [2a - Land Use Board Resolution of Adoption](#) (290 KB pdf)

Remaining Documents:

- [3 - Highlands ERI DRAFT January 2011](#) (25 MB pdf)
- [4 - Master Plan Highlands Element DRAFT January 2011](#) (643 KB pdf)
- [5 - Highlands Area Land Use Ordinance DRAFT January 2011](#) (741 KB pdf)
- [5a - Highlands Area Land Use Ordinance Exhibits](#) (55.8 MB pdf)
- [6 - Highlands Implementation Plan & Schedule January 2011](#) (178 KB pdf)

**Note:** For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer.

- [Administrative Completeness Letter](#) (560 KB pdf)
- [Municipal Petition for Plan Conformance](#) (34.5 MB zip)
  - [Petition Cover Letter](#) (42 KB pdf)
  - [Petition Submittal Checklist](#) (71 KB pdf)
  - [Preservation Area Resolution](#) (52 KB pdf)
  - [Record of Public Involvement](#) (2.8 MB pdf)
  - [Current List of Planning/Regulatory Documents](#) (5 KB pdf)
  - Modules 1 and 2: See **Highlands Municipal Build-Out Report** below



Module 3:

- [Affordable Housing Summary](#) (32 KB pdf)
- [Prior Round Sites Consistency Reports](#) (9.4 MB pdf)

• [Module 4 Highlands ERI](#) (3.4 MB pdf)

• [Module 5 Master Plan Highlands Element](#) (11.1 MB pdf)

• [Module 6 Highlands Land Use Ordinance](#) (7.9 MB pdf)

• Module 7:

- [Municipal Self-Assessment Report](#) (135 KB pdf)
- [Municipal Self-Assessment Checklist](#) (74 KB pdf)
- [Implementation Plan and Schedule](#) (73 KB pdf)

▪ Municipal Resolution: [Notice of Intent](#) (pdf)

▪ Municipal Resolution: [COAH extension](#) (pdf)

▪ MP3 Grant Report: [Redevelopment, Sustainable Community Plan, Ecotourism](#) (pdf)

▪ [Highlands Municipal Build-Out Report](#) (pdf)

- [Supporting Documents](#) (45 MB zip)



## **RESOLUTION 2011-8**

### **NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR THE TOWNSHIP OF WEST MILFORD, PASSAIC COUNTY**

**WHEREAS**, the New Jersey Highlands Region (Highlands Region) is an area of over 859,358 acres that consists of 88 municipalities in parts of seven counties – Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex and Warren; and

**WHEREAS**, the New Jersey Legislature found that the Highlands Region is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the population of the State of New Jersey, and also contains other exceptional natural resources such as clean air, contiguous forest lands, agricultural lands, wetlands, pristine watersheds, and habitat for fauna and flora, as well as sites of historic significance and recreational opportunities; and

**WHEREAS**, the Legislature found that the Highlands Region also provides a desirable quality of life and place where people live and work, that it is important to ensure the economic viability of Highlands communities and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities; and

**WHEREAS**, the Legislature found that the Highlands Region contains agricultural lands in active production and that these lands are important resources of the State that should be preserved, that the agricultural industry in the Region is a vital component of the economy, welfare, and cultural landscape of the Garden State and that maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible; and

**WHEREAS**, the Legislature found that the pace of development in the Highlands Region has dramatically increased, that the Region, because of its proximity to rapidly expanding suburban areas, is at serious risk of being fragmented and consumed by unplanned development and that the existing land use and environmental regulation system cannot protect the water and natural resources of the Highlands against the environmental impacts of sprawl development; and

**WHEREAS**, deeming protection of the Highlands Region an issue of State level importance, the Legislature enacted the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. (Highlands Act), to establish a regional approach to land use planning for the Highlands Region to replace the uncoordinated land use decisions of 88 municipalities, seven counties and a myriad of private landowners; and

**WHEREAS**, the Highlands Act delineates two areas in the Highlands Region: a Preservation Area, containing approximately 415,000 acres, and a Planning Area, containing approximately 445,000 acres; and

**WHEREAS**, the Legislature created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council) to advance a new regional approach to land use planning and to prepare a Regional Master Plan to protect and enhance the significant values of the Highlands resources throughout the entire Highlands Region; and

**RESOLUTION 2011-8**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR**  
**THE TOWNSHIP OF WEST MILFORD, PASSAIC COUNTY**

**WHEREAS**, the Preservation Area is an area with exceptional natural resource value that should be subject to stringent water and natural resource protection standards, policies, planning and regulation; and

**WHEREAS**, the Planning Area is the area outside of the Preservation Area that should likewise be part of a comprehensive planning approach that serves to protect the water and other significant resources of the entire Highlands Region while also accommodating appropriate patterns of development, redevelopment and economic growth; and

**WHEREAS**, the Legislature found that such a new regional approach to land use planning shall be complemented by increased standards more protective of the environment established by the New Jersey Department of Environmental Protection (NJDEP) for development in the Preservation Area of the Highlands; and

**WHEREAS**, the Legislature found that this comprehensive approach should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the Highlands Region and the entire State; and

**WHEREAS**, Sections 8 and 10 of the Highlands Act mandate that the Highlands Council prepare and adopt the Regional Master Plan with the goal of protecting and enhancing the significant values of the resources in the Highlands Region; and

**WHEREAS**, Section 10 of the Highlands Act establishes goals for the Regional Master Plan for both the Preservation Area and Planning Area, including to protect, restore, and enhance the quality and quantity of the waters of the Highlands, to preserve environmentally sensitive lands, to preserve lands needed for recreation and conservation, to promote brownfield remediation and redevelopment, to preserve farmland, historic sites and other historic resources, to preserve outdoor recreation opportunities, to promote water resource conservation, and to promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities; and

**WHEREAS**, the Highlands Act establishes development goals in the Preservation Area, to prohibit or limit, to the maximum extent possible, construction or development which is incompatible with the Preservation Area; and

**WHEREAS**, the Highlands Act establishes development goals in the Planning Area, to encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from individual and cumulative adverse impacts; and



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**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
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**WHEREAS**, Sections 11 and 12 of the Highlands Act specifically require that the Regional Master Plan be comprised of (a) a Resource Assessment that seeks to determine the amount and type of human development and activity that can be sustained by the Highlands Region's ecosystem while maintaining the Region's overall ecological values; (b) a Financial Component that details the costs of implementing the Regional Master Plan, and details the sources of revenue for covering those costs; (c) a Local Participation Component that provides for the maximum feasible local government and public input; (d) a Coordination and Consistency Component that details the ways in which local, State, and federal programs and policies may be best coordinated to promote the goals, purposes, policies, and provisions of the Regional Master Plan; (e) a Transportation Component that provides a plan for transportation system preservation; (f) a Smart Growth Component that assesses opportunities for appropriate development, redevelopment, economic growth and a transfer of development rights program, and includes a Land Use Capability Map; (g) a Land Use Capability Map for the Preservation Area and a comprehensive statement of policies for the development and use of land in the Preservation Area; and (h) a statement of policies, including a preservation zone element that identifies zones within the Preservation Area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights and minimum standards governing municipal and county master planning and development regulations; and

**WHEREAS**, after a careful analysis of the best available scientific and planning data and consultation with State, federal and local agencies pursuant to the Highlands Act, the Highlands Council adopted Resolution 2008-27 approving the Regional Master Plan on July 17, 2008 and, pursuant to the Highlands Act requirement for gubernatorial review, the Regional Master Plan thereafter became effective on September 8, 2008; and

**WHEREAS**, the Highlands Act creates a bifurcated system for municipal conformance with the Regional Master Plan – mandatory Plan Conformance for any portion of a municipality located wholly or partially in the Preservation Area and voluntary Plan Conformance for the municipalities with lands wholly in the Planning Area or for any portion of a municipality lying within the Planning Area; and

**WHEREAS**, Section 14 of the Highlands Act expressly requires mandatory Plan Conformance where municipalities, located wholly or partially in the Preservation Area, must revise and conform their local master plan and development regulations, as they relate to development and use of land in the Preservation Area, with the goals, requirements and provisions of the Regional Master Plan within 15 months of adoption thereof, or December 8, 2009; and

**WHEREAS**, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may voluntarily revise and conform their local master plans and development regulations, as they relate to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan at any time; and

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**WHEREAS**, pursuant to Sections 14 and 15 of the Highlands Act, the Highlands Council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof; and

**WHEREAS**, the Highlands Act provides that an approval of a Petition for Plan Conformance entitles the conforming municipality with specific benefits including: planning grants, technical assistance, state aid, priority for projects, tax stabilization funds, a strong presumption of validity and extraordinary deference in the event of legal challenge, and legal representation; and

**WHEREAS**, the Highlands Council approval of Resolution 2008-27 adopting the Regional Master Plan included the adoption of the Highlands Plan Conformance Guidelines that outlines the procedures, schedule, planning assistance, and benefits available for the submission of a Petition for Plan Conformance; and

**WHEREAS**, the Plan Conformance Guidelines provides a process for Basic Plan Conformance requiring the submission of plans and regulations that are immediately necessary to ensure protection of the Highlands resources and resource areas with more complex tasks to be completed in accordance with an Implementation Plan and Schedule as a condition of Plan Conformance; and

**WHEREAS**, Section 18 of the Highlands Act obligates the Highlands Council to establish a grant funding program to reimburse municipalities for reasonable expenses associated with Plan Conformance; and

**WHEREAS**, on December 18, 2008, the Highlands Council approved Resolution 2008-73 to provide grant funding for the Highlands municipalities to cover the reasonable expenses associated with revisions to master plans, development regulations or other regulations to conform them to the Regional Master Plan; and

**WHEREAS**, under Resolution 2008-73, the Highlands Council authorized the Executive Director to develop and implement a process for the solicitation and distribution of the Plan Conformance Grants in a total amount not to exceed \$7.5 million and up to \$100,000 allocation for each individual municipality for Basic Plan Conformance; and

**WHEREAS**, the Bylaws of the Highlands Council authorizes the Executive Director, as chief administrative officer, to approve contracts and issue payments up to \$25,000; and

**WHEREAS**, as directed, the Executive Director developed the Plan Conformance Grant Program, a program that splits Plan Conformance into the following seven steps or modules for administering the authorized grant funding: (1) and (2) Highlands municipal build-out analysis and report; (3) housing element and fair share plan; (4) Highlands environmental resource inventory; (5) master plan Highlands element; (6) Highlands Area land use ordinance; and (7) municipal Petition for Plan Conformance; and

**WHEREAS**, in the Township of West Milford includes 51,848 acres of land all of which is entirely in the Preservation Area; and



**RESOLUTION 2011-8**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR**  
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**WHEREAS**, on December 8, 2009, the Township of West Milford submitted a Petition for Plan Conformance including one resolution for all municipal lands; and

**WHEREAS**, on February 4, 2010, the Executive Director deemed the Petition for Plan Conformance administratively complete, and on February 9, 2010, posted the Petition documents on the Highlands Council website and thereafter commenced staff review of the Petition for consistency with the Regional Master Plan; and

**WHEREAS**, the Township of West Milford waived the municipal response period allowing the Township to review and respond to the Draft Consistency Review and Recommendations Report which provides the staff's assessment of the Petition for Plan Conformance, the level of conformance with the Regional Master Plan, and recommendations for any further actions necessary for Plan Conformance; and

**WHEREAS**, on January 20, 2011, the Executive Director completed the Final Draft Consistency Review and Recommendations Report, and posted a Public Notice, the Final Draft Consistency Review and Recommendations Report, and the complete Petition documents on the Highlands Council website for a public review and comment period with written comments due on or before February 4, 2011; and

**WHEREAS**, on February 10, 2011, the Executive Director posted the Final Consistency Review and Recommendations Report and Highlands Implementation Plan and Schedule on the Highlands Council website which addressed issues raised during the public comment period; and

**WHEREAS**, on February 17, 2011, the Highlands Council held a public hearing on the Township of West Milford's Petition for Plan Conformance and provided an opportunity for public comment; and

**WHEREAS**, the Highlands Council accepts the recommendation of the Executive Director as stated in the Final Consistency Review and Recommendations Report; and

**WHEREAS**, according to the Highlands Act and the Plan Conformance Guidelines, the Township of West Milford's compliance with an approved Final Consistency Review and Recommendations Report, the Highlands Implementation Plan and Schedule, the Highlands Plan Conformance Guidelines and the Highlands Act shall maintain the Township of West Milford's status as conforming to the Regional Master Plan and all statutory benefits associated with Plan Conformance; and

**WHEREAS**, the Plan Conformance Guidelines provides that no amendment to any master plan or development regulations applicable to the development and use of land in the Township of West Milford shall be effective until the Township of West Milford has submitted such amendment to the Highlands Council and such amendment has been found by the Council to be in conformance with the Regional Master Plan, or the Executive Director has notified the Township of West Milford that such amendment does not affect the Highlands Council's prior finding of Plan Conformance; and

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**APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR**  
**THE TOWNSHIP OF WEST MILFORD, PASSAIC COUNTY**

**WHEREAS**, the Plan Conformance Guidelines provides that following the receipt of any amendment to the Township of West Milford's master plan or development regulations, the Executive Director is required to determine whether or not the amendment raises a substantive issue with respect to the conformance of the municipal master plan or development regulations with the Regional Master Plan, and

**WHEREAS**, the Plan Conformance Guidelines provides that if the Executive Director determines no such substantive issue is raised with respect to an amendment, the Executive Director shall certify such fact and notify the Clerk of the Township of West Milford and the Highlands Council, and shall provide notice on the Highlands Council website, and such amendment shall thereupon take effect in accordance with its terms and applicable law; and

**WHEREAS**, the Plan Conformance Guidelines provides that if the Executive Director determines that an amendment raises a substantive issue with respect to the conformance of the municipal master plan or development regulations to the Regional Master Plan, the amended municipal master plan or development regulations shall be reviewed in accordance with the Plan Conformance Guidelines; 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 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 hereby approves the Township of West Milford's Petition for Plan Conformance with conditions as set forth in the Final Consistency Review and Recommendations Report and the Highlands Implementation Plan and Schedule; and

**BE IT FURTHER RESOLVED** that the Executive Director is authorized to make any amendments and publicly release the Final Consistency Review and Recommendations Report, Highlands Implementation Plan and Schedule, and amend the Plan Conformance Grant Agreement consistent with direction from the Highlands Council, to properly effectuate the intent of the Council and thereafter execute the Report, Schedule and Agreement on behalf of the Council; and

**BE IT FURTHER RESOLVED**, that the Township of West Milford is hereby entitled to the statutory benefits associated with Plan Conformance as detailed in the Highlands Act, the Regional Master Plan and the Plan Conformance Guidelines, so long as the Township of West Milford remains in conformance with the Regional Master Plan and to the extent such funds are made available by the State; and

**BE IT FURTHER RESOLVED**, the Executive Director is authorized, consistent with direction from the Council, to oversee and monitor the Township of West Milford's compliance with this Resolution and to take any and all action necessary in coordination with the Highlands Council.



**RESOLUTION 2011-8**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR**  
**THE TOWNSHIP OF WEST MILFORD, PASSAIC COUNTY**

**CERTIFICATION**

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 17<sup>th</sup> day of February, 2011.

  
\_\_\_\_\_  
Jack J. Schrier, Acting Chairman

<u>Vote on the Approval of this Resolution</u>	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede			✓			
Councilmember Carluccio						✓
Councilmember Cogger			✓			
Councilmember Francis			✓			
Councilmember Holtaway			✓			
Councilmember Kovach		✓	✓			
Councilmember Letts			✓			
Councilmember Richko	✓		✓			
Councilmember Vetrano						✓
Councilmember Visioli			✓			
Acting Chairman Schrier			✓			



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## Tewksbury Township

Tewksbury Township in Hunterdon County has 6,857 acres in the Planning Area and 13,469 acres in the Preservation Area of the Highlands Region. The municipality submitted a Petition for Plan Conformance for both areas, which was approved by the Highlands Council on February 17, 2011. This page contains links to documents related to the Township's conformance with the Highlands Regional Master Plan.

**Note:** For faster downloads, right-click on a file and select "Save Target As..." to save to your computer.

### Conformance Documents Adopted by Municipality

This section contains documents approved by Tewksbury Township that effectuate the Township's conformance with the Highlands Regional Master Plan.

- [Highlands Checklist Ordinance](#) (pdf)
- [Planning Area Petition Ordinance](#) (pdf)
- [Highlands Environmental Resource Inventory](#) (pdf)
- [Highlands Environmental Inventory Figures](#) (pdf)

### Approved Petition for Plan Conformance

The Highlands Council voted unanimously on February 17, 2011, to approve Tewksbury Township's Petition for Plan Conformance.

**Note:** For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer.

### Council-Approved Documents

- All documents listed below as one compressed file: [Petition Documents Approved by Highlands Council](#) (58 MB zip)
- Individual files:
  - [Highlands Council Resolution 2011-9 Approval of Tewksbury Township's Petition for Plan Conformance](#) (345 KB pdf) (posted previously)
  - [Highlands Final Consistency Review and Recommendations Report](#) (360 KB pdf) (posted 6/21/11)
  - [Highlands Implementation Plan and Schedule](#) (172 KB pdf) (posted 6/21/11)
  - [Highlands Municipal Build-Out Report](#) (2.88 MB pdf) (posted previously)
  - [Adopted Housing Element and Fair Share Plan](#) (12 MB pdf) (posted previously)
  - [Adopted Housing Element and Fair Share Plan Exhibits](#) (551 KB pdf) (posted previously)
  - [Highlands Environmental Resource Inventory](#) (9.65 MB pdf) (posted previously)
  - [Highlands Master Plan Element](#) (880 KB pdf) (posted previously)
  - [Highlands Master Plan Element Exhibits](#) (13 MB pdf) (posted 6/21/11)
  - [Highlands Area Land Use Ordinance](#) (1.26 MB pdf) (posted previously)
  - [Highlands Area Land Use Ordinance Exhibits](#) (19 MB pdf) (posted previously)

### Materials from Public Hearing

- [Highlands Council Resolution](#) (pdf)
- [Tewksbury Township Presentation](#) (pdf)
- [Press Release](#) (pdf)
- [Pictures](#) (pdf)
- [Public Hearing: February 17, 2011](#)
- [Tewksbury Township Movie](#)

### Final Posting Prior to Public Hearing

The documents below include all edits made prior to the Highlands Council's consideration of Tewksbury Township's Petition for Plan Conformance.

- [Final Consistency Review and Recommendations Report](#) (468 KB pdf)
- [Public Comments/Highlands Council Responses](#) (266 KB pdf)
- [Highlands Land Use Ordinance Exhibit 10 \(Water/Sewerage Facilities\), Revised](#) (1 MB pdf)

### Petition Posting for Public Comment

A public comment period was held from January 20 through February 4, 2011 and announced by [public notice](#). The following documents constitute the municipality's final submission to the Highlands Council and include the Final Draft Consistency Review and Recommendations Report prepared by Highlands Council staff for Highlands Council consideration of the full Petition.

- [Petition Posting for Public Comment](#) (43 MB zip)
  - [Final Draft Consistency Review & Recommendations Report](#) (412 KB pdf)

Final Housing Plan Submittals:

  - [Housing Element and Fair Share Plan June 2010](#) (12.3 MB pdf)
  - [Land Use Board Resolution of Adoption](#) (551 KB pdf)

Remaining Documents:

  - [Highlands ERI DRAFT January 2011](#) (9.9 MB pdf)
  - [Master Plan Highlands Element DRAFT January 2011](#) (931 KB pdf)
  - [Highlands Area Land Use Ordinance DRAFT January 2011](#) (1.3 MB pdf)
  - [Highlands Area Land Use Ordinance Exhibits](#) (19.7 MB pdf)
  - [Highlands Implementation Plan & Schedule January 2011](#) (179 KB pdf)



### Administratively Complete Petition for Plan Conformance

- Administrative Completeness Letter:
  - [Completeness Letter dated March 31, 2010](#) (565 KB pdf)
  - [Completeness Letter dated January 26, 2010](#) (309 KB pdf)
- All documents listed below as one compressed file: [Municipal Petition for Plan Conformance](#) (27.8 MB zip)
- Individual files:
  - [Petition Cover Letter](#) (68 KB pdf)
  - [Petition Submittal Checklist](#) (82 KB pdf)
  - [Preservation Area Resolution](#) (112 KB pdf)
  - [Planning Area Resolution](#) (163 KB pdf)
  - [General Correspondence - Jesse Landon, Township Administrator](#) (115 KB pdf)
  - [General Correspondence - Letter from Roberta Brassard, Municipal Clerk](#) (103 KB pdf)
  - [Record of Public Involvement](#) (1.2 MB pdf)
  - [Current List of Planning/Regulatory Documents](#) (5 KB pdf)
  - Modules 1 and 2: See **Highlands Municipal Build-Out Report** below
  - Module 3:
    - [Affordable Housing Summary](#) (68 KB pdf)
  - [Module 4 Highlands ERI](#) (7.6 MB pdf)
  - [Module 5 Master Plan Highlands Element](#) (10.8 MB pdf)
  - [Module 6 Highlands Land Use Ordinance](#) (7.5 MB pdf)
  - Module 7:
    - [Municipal Self-Assessment Report](#) (231 KB pdf)
    - [Municipal Self-Assessment Checklist](#) (75 KB pdf)
    - [Implementation Plan and Schedule](#) (73 KB pdf)

### Supporting Documents

- Municipal Resolution: [Notice of Intent](#) (pdf)
- Municipal Resolution: [COAH extension](#) (pdf)
- [Initial Assessment Grant Report](#) (pdf)
- [Highlands Municipal Build-Out Report](#) (pdf)
  - [Supporting files](#) (44 MB zip)



## **RESOLUTION 2011-9**

### **NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR THE TOWNSHIP OF TEWKSBURY, HUNTERDON COUNTY**

**WHEREAS**, the New Jersey Highlands Region (Highlands Region) is an area of over 859,358 acres that consists of 88 municipalities in parts of seven counties – Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex and Warren; and

**WHEREAS**, the New Jersey Legislature found that the Highlands Region is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the population of the State of New Jersey, and also contains other exceptional natural resources such as clean air, contiguous forest lands, agricultural lands, wetlands, pristine watersheds, and habitat for fauna and flora, as well as sites of historic significance and recreational opportunities; and

**WHEREAS**, the Legislature found that the Highlands Region also provides a desirable quality of life and place where people live and work, that it is important to ensure the economic viability of Highlands communities and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities; and

**WHEREAS**, the Legislature found that the Highlands Region contains agricultural lands in active production and that these lands are important resources of the State that should be preserved, that the agricultural industry in the Region is a vital component of the economy, welfare, and cultural landscape of the Garden State and that maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible; and

**WHEREAS**, the Legislature found that the pace of development in the Highlands Region has dramatically increased, that the Region, because of its proximity to rapidly expanding suburban areas, is at serious risk of being fragmented and consumed by unplanned development and that the existing land use and environmental regulation system cannot protect the water and natural resources of the Highlands against the environmental impacts of sprawl development; and

**WHEREAS**, deeming protection of the Highlands Region an issue of State level importance, the Legislature enacted the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. (Highlands Act), to establish a regional approach to land use planning for the Highlands Region to replace the uncoordinated land use decisions of 88 municipalities, seven counties and a myriad of private landowners; and

**WHEREAS**, the Highlands Act delineates two areas in the Highlands Region: a Preservation Area, containing approximately 415,000 acres, and a Planning Area, containing approximately 445,000 acres; and

**WHEREAS**, the Legislature created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council) to advance a new regional approach to land use planning and to prepare a Regional Master Plan to protect and enhance the significant values of the Highlands resources throughout the entire Highlands Region; and



**RESOLUTION 2011-9**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR**  
**THE TOWNSHIP OF TEWKSBURY, HUNTERDON COUNTY**

**WHEREAS**, the Preservation Area is an area with exceptional natural resource value that should be subject to stringent water and natural resource protection standards, policies, planning and regulation; and

**WHEREAS**, the Planning Area is the area outside of the Preservation Area that should likewise be part of a comprehensive planning approach that serves to protect the water and other significant resources of the entire Highlands Region while also accommodating appropriate patterns of development, redevelopment and economic growth; and

**WHEREAS**, the Legislature found that such a new regional approach to land use planning shall be complemented by increased standards more protective of the environment established by the New Jersey Department of Environmental Protection (NJDEP) for development in the Preservation Area of the Highlands; and

**WHEREAS**, the Legislature found that this comprehensive approach should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the Highlands Region and the entire State; and

**WHEREAS**, Sections 8 and 10 of the Highlands Act mandate that the Highlands Council prepare and adopt the Regional Master Plan with the goal of protecting and enhancing the significant values of the resources in the Highlands Region; and

**WHEREAS**, Section 10 of the Highlands Act establishes goals for the Regional Master Plan for both the Preservation Area and Planning Area, including to protect, restore, and enhance the quality and quantity of the waters of the Highlands, to preserve environmentally sensitive lands, to preserve lands needed for recreation and conservation, to promote brownfield remediation and redevelopment, to preserve farmland, historic sites and other historic resources, to preserve outdoor recreation opportunities, to promote water resource conservation, and to promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities; and

**WHEREAS**, the Highlands Act establishes development goals in the Preservation Area, to prohibit or limit, to the maximum extent possible, construction or development which is incompatible with the Preservation Area; and

**WHEREAS**, the Highlands Act establishes development goals in the Planning Area, to encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from individual and cumulative adverse impacts; and

**RESOLUTION 2011-9**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR**  
**THE TOWNSHIP OF TEWKSBURY, HUNTERDON COUNTY**

**WHEREAS**, Sections 11 and 12 of the Highlands Act specifically require that the Regional Master Plan be comprised of (a) a Resource Assessment that seeks to determine the amount and type of human development and activity that can be sustained by the Highlands Region's ecosystem while maintaining the Region's overall ecological values; (b) a Financial Component that details the costs of implementing the Regional Master Plan, and details the sources of revenue for covering those costs; (c) a Local Participation Component that provides for the maximum feasible local government and public input; (d) a Coordination and Consistency Component that details the ways in which local, State, and federal programs and policies may be best coordinated to promote the goals, purposes, policies, and provisions of the Regional Master Plan; (e) a Transportation Component that provides a plan for transportation system preservation; (f) a Smart Growth Component that assesses opportunities for appropriate development, redevelopment, economic growth and a transfer of development rights program, and includes a Land Use Capability Map; (g) a Land Use Capability Map for the Preservation Area and a comprehensive statement of policies for the development and use of land in the Preservation Area; and (h) a statement of policies, including a preservation zone element that identifies zones within the Preservation Area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights and minimum standards governing municipal and county master planning and development regulations; and

**WHEREAS**, after a careful analysis of the best available scientific and planning data and consultation with State, federal and local agencies pursuant to the Highlands Act, the Highlands Council adopted Resolution 2008-27 approving the Regional Master Plan on July 17, 2008 and, pursuant to the Highlands Act requirement for gubernatorial review, the Regional Master Plan thereafter became effective on September 8, 2008; and

**WHEREAS**, the Highlands Act creates a bifurcated system for municipal conformance with the Regional Master Plan – mandatory Plan Conformance for any portion of a municipality located wholly or partially in the Preservation Area and voluntary Plan Conformance for the municipalities with lands wholly in the Planning Area or for any portion of a municipality lying within the Planning Area; and

**WHEREAS**, Section 14 of the Highlands Act expressly requires mandatory Plan Conformance where municipalities, located wholly or partially in the Preservation Area, must revise and conform their local master plan and development regulations, as they relate to development and use of land in the Preservation Area, with the goals, requirements and provisions of the Regional Master Plan within 15 months of adoption thereof, or December 8, 2009; and

**WHEREAS**, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may voluntarily revise and conform their local master plans and development regulations, as they relate to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan at any time; and



**RESOLUTION 2011-9**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR**  
**THE TOWNSHIP OF TEWKSBURY, HUNTERDON COUNTY**

**WHEREAS**, pursuant to Sections 14 and 15 of the Highlands Act, the Highlands Council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof; and

**WHEREAS**, the Highlands Act provides that an approval of a Petition for Plan Conformance entitles the conforming municipality with specific benefits including: planning grants, technical assistance, state aid, priority for projects, tax stabilization funds, a strong presumption of validity and extraordinary deference in the event of legal challenge, and legal representation; and

**WHEREAS**, the Highlands Council approval of Resolution 2008-27 adopting the Regional Master Plan included the adoption of the Highlands Plan Conformance Guidelines that outlines the procedures, schedule, planning assistance, and benefits available for the submission of a Petition for Plan Conformance; and

**WHEREAS**, the Plan Conformance Guidelines provides a process for Basic Plan Conformance requiring the submission of plans and regulations that are immediately necessary to ensure protection of the Highlands resources and resource areas with more complex tasks to be completed in accordance with an Implementation Plan and Schedule as a condition of Plan Conformance; and

**WHEREAS**, Section 18 of the Highlands Act obligates the Highlands Council to establish a grant funding program to reimburse municipalities for reasonable expenses associated with Plan Conformance; and

**WHEREAS**, on December 18, 2008, the Highlands Council approved Resolution 2008-73 to provide grant funding for the Highlands municipalities to cover the reasonable expenses associated with revisions to master plans, development regulations or other regulations to conform them to the Regional Master Plan; and

**WHEREAS**, under Resolution 2008-73, the Highlands Council authorized the Executive Director to develop and implement a process for the solicitation and distribution of the Plan Conformance Grants in a total amount not to exceed \$7.5 million and up to \$100,000 allocation for each individual municipality for Basic Plan Conformance; and

**WHEREAS**, the Bylaws of the Highlands Council authorizes the Executive Director, as chief administrative officer, to approve contracts and issue payments up to \$25,000; and

**WHEREAS**, as directed, the Executive Director developed the Plan Conformance Grant Program, a program that splits Plan Conformance into the following seven steps or modules for administering the authorized grant funding: (1) and (2) Highlands municipal build-out analysis and report; (3) housing element and fair share plan; (4) Highlands environmental resource inventory; (5) master plan Highlands element; (6) Highlands Area land use ordinance; and (7) municipal Petition for Plan Conformance; and

**WHEREAS**, in the Township of Tewksbury 13,469 acres are in the Preservation Area and 6,857 acres are in the Planning Area; and

**RESOLUTION 2011-9**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR**  
**THE TOWNSHIP OF TEWKSBURY, HUNTERDON COUNTY**

**WHEREAS**, on December 8, 2009, the Township of Tewksbury submitted a Petition for Plan Conformance including two resolutions; one for all lands lying in the Preservation Area and one for all lands lying in the Planning Area; and

**WHEREAS**, on March 31, 2010, the Executive Director deemed the Petition for Plan Conformance administratively complete, and on April 9, 2010, posted the Petition documents on the Highlands Council website and thereafter commenced staff review of the Petition for consistency with the Regional Master Plan; and

**WHEREAS**, on August 27, 2010, the Executive Director provided the Township of Tewksbury with a Draft Consistency Review and Recommendations Report, which provides the staff's assessment of the Petition for Plan Conformance, the level of conformance with the Regional Master Plan, and recommendations for any further actions necessary for Plan Conformance; and

**WHEREAS**, the Executive Director provided the Township of Tewksbury with a deliberative municipal response period allowing the Township of Tewksbury to review and respond to the Draft Consistency Review and Recommendations Report; and

**WHEREAS**, on January 20, 2011, the Executive Director completed the Final Draft Consistency Review and Recommendations Report, and posted a Public Notice, the Final Draft Consistency Review and Recommendations Report, and the complete Petition documents on the Highlands Council website for a public review and comment period with written comments due on or before February 4, 2011; and

**WHEREAS**, on February 10, 2011, the Executive Director posted the Final Consistency Review and Recommendations Report and Highlands Implementation Plan and Schedule on the Highlands Council website which addressed issues raised during the public comment period; and

**WHEREAS**, on February 17, 2011, the Highlands Council held a public hearing on the Township of Tewksbury's Petition for Plan Conformance and provided an opportunity for public comment; and

**WHEREAS**, the Highlands Council accepts the recommendation of the Executive Director as stated in the Final Consistency Review and Recommendations Report; and

**WHEREAS**, according to the Highlands Act and the Plan Conformance Guidelines, the Township of Tewksbury's compliance with an approved Final Consistency Review and Recommendations Report, the Highlands Implementation Plan and Schedule, the Highlands Plan Conformance Guidelines and the Highlands Act shall maintain the Township of Tewksbury's status as conforming to the Regional Master Plan and all statutory benefits associated with Plan Conformance; and

**WHEREAS**, the Plan Conformance Guidelines recognizes that conformance in the Planning Area is voluntary under the Highlands Act and provides that the period of an approval of a Petition for Plan Conformance shall be for a period of no more than six (6) years, or until six (6) months after



## **RESOLUTION 2011-9**

### **NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR THE TOWNSHIP OF TEWKSBURY, HUNTERDON COUNTY**

the completion of a reexamination by the Township of Tewksbury of its master plan and development regulations as required by the Municipal Land Use Law, or until one (1) year after the Highlands Council adopts its six-year reexamination of the Regional Master Plan, whichever time period is the shorter; the six (6) month and one (1) year periods provided herein allowing time for the submittal and processing of petitions for a re-examination of Plan Conformance before the Highlands Council; and

**WHEREAS**, the Plan Conformance Guidelines provides that no amendment to any master plan or development regulations applicable to the development and use of land in the Township of Tewksbury shall be effective until the Township of Tewksbury has submitted such amendment to the Highlands Council and such amendment has been found by the Council to be in conformance with the Regional Master Plan, or the Executive Director has notified the Township of Tewksbury that such amendment does not affect the Highlands Council's prior finding of Plan Conformance; and

**WHEREAS**, the Plan Conformance Guidelines provides that following the receipt of any amendment to the Township of Tewksbury's master plan or development regulations, the Executive Director is required to determine whether or not the amendment raises a substantive issue with respect to the conformance of the municipal master plan or development regulations with the Regional Master Plan, and

**WHEREAS**, the Plan Conformance Guidelines provides that if the Executive Director determines no such substantive issue is raised with respect to an amendment, the Executive Director shall certify such fact and notify the Clerk of the Township of Tewksbury and the Highlands Council, and shall provide notice on the Highlands Council website, and such amendment shall thereupon take effect in accordance with its terms and applicable law; and

**WHEREAS**, the Plan Conformance Guidelines provides that if the Executive Director determines that an amendment raises a substantive issue with respect to the conformance of the municipal master plan or development regulations to the Regional Master Plan, the amended municipal master plan or development regulations shall be reviewed in accordance with the Plan Conformance Guidelines; 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 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 hereby approves the Township of Tewksbury's Petition for Plan Conformance with conditions as set forth in the Final Consistency Review and Recommendations Report and the Highlands Implementation Plan and Schedule; and

## RESOLUTION 2011-9

### NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR THE TOWNSHIP OF TEWKSBURY, HUNTERDON COUNTY

**BE IT FURTHER RESOLVED** that the Executive Director is authorized to make any amendments and publicly release the Final Consistency Review and Recommendations Report, Highlands Implementation Plan and Schedule, and amend the Plan Conformance Grant Agreement consistent with direction from the Highlands Council, to properly effectuate the intent of the Council and thereafter execute the Report, Schedule and Agreement on behalf of the Council; and

**BE IT FURTHER RESOLVED**, that the Township of Tewksbury is hereby entitled to the statutory benefits associated with Plan Conformance as detailed in the Highlands Act, the Regional Master Plan and the Plan Conformance Guidelines, so long as the Township of Tewksbury remains in conformance with the Regional Master Plan and to the extent such funds are made available by the State; and

**BE IT FURTHER RESOLVED**, the Executive Director is authorized, consistent with direction from the Council, to oversee and monitor the Township of Tewksbury's compliance with this Resolution and to take any and all action necessary in coordination with the Highlands Council.

### CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 17<sup>th</sup> day of February, 2011.

  
\_\_\_\_\_  
Jack J. Schrier, Acting Chairman

<u>Vote on the Approval of this Resolution</u>	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede			✓			
Councilmember Carluccio						✓
Councilmember Cogger			✓			
Councilmember Francis			✓			
Councilmember Holtaway		✓	✓			
Councilmember Kovach						✓
Councilmember Letts			✓			
Councilmember Richko			✓			
Councilmember Vetrano						✓
Councilmember Visioli	✓		✓			
Acting Chairman Schrier			✓			





# New Jersey Highlands Council

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Credits \(TDR Program\)](#)[Home](#) > [Plan Conformance](#) > [Rockaway Township](#)

## Rockaway Township

The Highlands Council voted unanimously on February 17, 2011, to approve Rockaway Township's Petition for Plan Conformance.

**Note:** For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer.

- [Highlands Council Resolution](#) (pdf)
- [Rockaway Township Presentation](#) (pdf)
- [Press Release](#) (pdf)
- [Pictures](#) (pdf)
- [Public Hearing: February 17, 2011](#)
- [Rockaway Township Movie](#)

- [Highlands Council Approved Documents](#) (86 MB zip):

**Note:** To download all files, right-click on the [Highlands Council Approved Documents zip file](#) and select "Save Target As..." to save it to your computer.

- [1 - Highlands Council Resolution 2011-10 Approval of Rockaway Township's Petition for Plan Conformance](#) (476 KB pdf) (posted previously)
- [1a - Highlands Final Consistency Review and Recommendations Report](#) (1.93 MB pdf) (posted 4/8/11)
- [1b - Highlands Implementation Plan and Schedule](#) (174 KB pdf) (posted 4/8/11)
- [2 - Highlands Municipal Build-Out Report](#) (2.17 MB pdf) (posted previously)
- [3 - Adopted Housing Element](#) (1.19 MB pdf) (posted previously)
- [3a - Adopted Fair Share Plan Appendices](#) (534 KB pdf) (posted previously)
- [3b - Adopted Fair Share Plan Maps](#) (17 MB pdf) (posted previously)
- [4 - Highlands Environmental Resource Inventory](#) (6.46 MB pdf) (posted previously)
- [5 - Highlands Master Plan Element](#) (6.45 MB pdf) (posted previously)
- [6 - Highlands Area Land Use Ordinance](#) (1.21 MB pdf) (posted previously)
- [6a - Highlands Area Land Use Ordinance Exhibits](#) (52 MB pdf) (posted previously)

## Final Posting Prior to Public Hearing

The documents below include all edits made prior to the Highlands Council's consideration of Rockaway Township's Petition for Plan Conformance, which is scheduled for its meeting on February 17, 2011.

- [Final Posting Prior to Public Hearing](#) (54 MB zip)
  - [1 - Final Consistency Review and Recommendations Report](#) (2 MB pdf)
  - [2 - Public Comments/Highlands Council Responses](#) (226 KB pdf)
  - [3 - Final Highlands Implementation Plan and Schedule](#) (177 KB pdf)
  - [4 - Revised Ordinance Exhibits](#) (53 MB pdf)

## Petition Posting for Public Comment (Public Comment Period: Dec. 15, 2010 - Jan. 18, 2011)

A public hearing for Rockaway Township's Petition for Plan Conformance is scheduled for the Highlands Council meeting of February 17, 2011. The [public notice for this hearing](#) includes information on how to submit public comments.

The following documents constitute the municipality's final submission to the Highlands Council and include the Final Draft Consistency Review and Recommendations Report prepared by Highlands Council staff for Highlands Council consideration of the full Petition.

**Note:** To download all files, right-click on the "Petition Posting for Public Comment" zip file and select "Save Target As..." to save it to your computer.

- [Petition Posting for Public Comment](#) (85 MB zip)
  - [1 - Final Draft Consistency Review & Recommendations Report](#) (2 MB pdf)

Final Housing Plan Submittals:

  - [2 - Housing Element and Fair Share Plan May 2010](#) (1.2 MB pdf)
  - [2a - Housing Element Appendices](#) (534 KB pdf)
  - [2b - Housing Element Maps](#) (17 MB pdf)

Remaining Documents:

  - [3 - Highlands ERI DRAFT December 2010](#) (9.1 MB pdf)
  - [4 - Master Plan Highlands Element DRAFT December 2010](#) (6.6 MB pdf)
  - [5 - Highlands Area Land Use Ordinance DRAFT September 2010](#) (1.2 MB pdf)
  - [5a - Highlands Area Land Use Ordinance Exhibits](#) (49 MB pdf)
  - [6 - Highlands Implementation Plan & Schedule](#) (176 KB pdf)

## Previously Posted Documents

**Note:** For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer.

- [Administrative Completeness Letter](#) (559 KB pdf)
- [Municipal Petition for Plan Conformance](#) (72 MB zip)

- [Petition Cover Letter](#) (26 KB pdf)
- [Petition Submittal Checklist](#) (97 KB pdf)
- [Preservation Area Resolution](#) (79 KB pdf)
- [Planning Area Resolution](#) (136 KB pdf)
- [General Correspondence: Letter from Rockaway Twp](#) (25 KB pdf)
- [Record of Public Involvement](#) (1.4 MB pdf)
- [Current List of Planning/Regulatory Documents](#) (14 KB pdf)
- Modules 1 and 2: See **Highlands Municipal Build-Out Report** below
- Module 3:
  - [Affordable Housing Summary](#) (2.4 KB pdf)
  - [Prior Round Sites Consistency Reports](#) (53.2 MB pdf)
- [Module 4 Highlands ERI](#) (6.5 MB pdf)
- [Module 5 Master Plan Highlands Element](#) (6.2 MB pdf)
- [Module 6 Highlands Land Use Ordinance](#) (4.6 MB pdf)
- Module 7:
  - [Municipal Self-Assessment Report](#) (258 KB pdf)
  - [Municipal Self-Assessment Checklist](#) (108 KB pdf)
  - [Implementation Plan and Schedule](#) (97 KB pdf)
- Supporting Materials:
  - [Plan Conformance Comparison](#) (44 KB pdf)
- Municipal Resolution: [Notice of Intent](#) (pdf)
- Municipal Resolution: [COAH extension](#) (pdf)
- [Initial Assessment Grant Report](#) (pdf)
- [Highlands Municipal Build-Out Report](#) (pdf)
  - [Supporting Documents](#) (68 MB zip)





**RESOLUTION 2011-10**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR**  
**THE TOWNSHIP OF ROCKAWAY, MORRIS COUNTY**

**WHEREAS**, the New Jersey Highlands Region (Highlands Region) is an area of over 859,358 acres that consists of 88 municipalities in parts of seven counties – Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex and Warren; and

**WHEREAS**, the New Jersey Legislature found that the Highlands Region is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the population of the State of New Jersey, and also contains other exceptional natural resources such as clean air, contiguous forest lands, agricultural lands, wetlands, pristine watersheds, and habitat for fauna and flora, as well as sites of historic significance and recreational opportunities; and

**WHEREAS**, the Legislature found that the Highlands Region also provides a desirable quality of life and place where people live and work, that it is important to ensure the economic viability of Highlands communities and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities; and

**WHEREAS**, the Legislature found that the Highlands Region contains agricultural lands in active production and that these lands are important resources of the State that should be preserved, that the agricultural industry in the Region is a vital component of the economy, welfare, and cultural landscape of the Garden State and that maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible; and

**WHEREAS**, the Legislature found that the pace of development in the Highlands Region has dramatically increased, that the Region, because of its proximity to rapidly expanding suburban areas, is at serious risk of being fragmented and consumed by unplanned development and that the existing land use and environmental regulation system cannot protect the water and natural resources of the Highlands against the environmental impacts of sprawl development; and

**WHEREAS**, deeming protection of the Highlands Region an issue of State level importance, the Legislature enacted the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. (Highlands Act), to establish a regional approach to land use planning for the Highlands Region to replace the uncoordinated land use decisions of 88 municipalities, seven counties and a myriad of private landowners; and

**WHEREAS**, the Highlands Act delineates two areas in the Highlands Region: a Preservation Area, containing approximately 415,000 acres, and a Planning Area, containing approximately 445,000 acres; and

**WHEREAS**, the Legislature created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council) to advance a new regional approach to land use planning and to prepare a Regional Master Plan to protect and enhance the significant values of the Highlands resources throughout the entire Highlands Region; and

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**WHEREAS**, the Preservation Area is an area with exceptional natural resource value that should be subject to stringent water and natural resource protection standards, policies, planning and regulation; and

**WHEREAS**, the Planning Area is the area outside of the Preservation Area that should likewise be part of a comprehensive planning approach that serves to protect the water and other significant resources of the entire Highlands Region while also accommodating appropriate patterns of development, redevelopment and economic growth; and

**WHEREAS**, the Legislature found that such a new regional approach to land use planning shall be complemented by increased standards more protective of the environment established by the New Jersey Department of Environmental Protection (NJDEP) for development in the Preservation Area of the Highlands; and

**WHEREAS**, the Legislature found that this comprehensive approach should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the Highlands Region and the entire State; and

**WHEREAS**, Sections 8 and 10 of the Highlands Act mandate that the Highlands Council prepare and adopt the Regional Master Plan with the goal of protecting and enhancing the significant values of the resources in the Highlands Region; and

**WHEREAS**, Section 10 of the Highlands Act establishes goals for the Regional Master Plan for both the Preservation Area and Planning Area, including to protect, restore, and enhance the quality and quantity of the waters of the Highlands, to preserve environmentally sensitive lands, to preserve lands needed for recreation and conservation, to promote brownfield remediation and redevelopment, to preserve farmland, historic sites and other historic resources, to preserve outdoor recreation opportunities, to promote water resource conservation, and to promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities; and

**WHEREAS**, the Highlands Act establishes development goals in the Preservation Area, to prohibit or limit, to the maximum extent possible, construction or development which is incompatible with the Preservation Area; and

**WHEREAS**, the Highlands Act establishes development goals in the Planning Area, to encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from individual and cumulative adverse impacts; and



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**WHEREAS**, Sections 11 and 12 of the Highlands Act specifically require that the Regional Master Plan be comprised of (a) a Resource Assessment that seeks to determine the amount and type of human development and activity that can be sustained by the Highlands Region's ecosystem while maintaining the Region's overall ecological values; (b) a Financial Component that details the costs of implementing the Regional Master Plan, and details the sources of revenue for covering those costs; (c) a Local Participation Component that provides for the maximum feasible local government and public input; (d) a Coordination and Consistency Component that details the ways in which local, State, and federal programs and policies may be best coordinated to promote the goals, purposes, policies, and provisions of the Regional Master Plan; (e) a Transportation Component that provides a plan for transportation system preservation; (f) a Smart Growth Component that assesses opportunities for appropriate development, redevelopment, economic growth and a transfer of development rights program, and includes a Land Use Capability Map; (g) a Land Use Capability Map for the Preservation Area and a comprehensive statement of policies for the development and use of land in the Preservation Area; and (h) a statement of policies, including a preservation zone element that identifies zones within the Preservation Area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights and minimum standards governing municipal and county master planning and development regulations; and

**WHEREAS**, after a careful analysis of the best available scientific and planning data and consultation with State, federal and local agencies pursuant to the Highlands Act, the Highlands Council adopted Resolution 2008-27 approving the Regional Master Plan on July 17, 2008 and, pursuant to the Highlands Act requirement for gubernatorial review, the Regional Master Plan thereafter became effective on September 8, 2008; and

**WHEREAS**, the Highlands Act creates a bifurcated system for municipal conformance with the Regional Master Plan – mandatory Plan Conformance for any portion of a municipality located wholly or partially in the Preservation Area and voluntary Plan Conformance for the municipalities with lands wholly in the Planning Area or for any portion of a municipality lying within the Planning Area; and

**WHEREAS**, Section 14 of the Highlands Act expressly requires mandatory Plan Conformance where municipalities, located wholly or partially in the Preservation Area, must revise and conform their local master plan and development regulations, as they relate to development and use of land in the Preservation Area, with the goals, requirements and provisions of the Regional Master Plan within 15 months of adoption thereof, or December 8, 2009; and

**WHEREAS**, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may voluntarily revise and conform their local master plans and development regulations, as they relate to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan at any time; and

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**WHEREAS**, pursuant to Sections 14 and 15 of the Highlands Act, the Highlands Council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof; and

**WHEREAS**, the Highlands Act provides that an approval of a Petition for Plan Conformance entitles the conforming municipality with specific benefits including: planning grants, technical assistance, state aid, priority for projects, tax stabilization funds, a strong presumption of validity and extraordinary deference in the event of legal challenge, and legal representation; and

**WHEREAS**, the Highlands Council approval of Resolution 2008-27 adopting the Regional Master Plan included the adoption of the Highlands Plan Conformance Guidelines that outlines the procedures, schedule, planning assistance, and benefits available for the submission of a Petition for Plan Conformance; and

**WHEREAS**, the Plan Conformance Guidelines provides a process for Basic Plan Conformance requiring the submission of plans and regulations that are immediately necessary to ensure protection of the Highlands resources and resource areas with more complex tasks to be completed in accordance with an Implementation Plan and Schedule as a condition of Plan Conformance; and

**WHEREAS**, Section 18 of the Highlands Act obligates the Highlands Council to establish a grant funding program to reimburse municipalities for reasonable expenses associated with Plan Conformance; and

**WHEREAS**, on December 18, 2008, the Highlands Council approved Resolution 2008-73 to provide grant funding for the Highlands municipalities to cover the reasonable expenses associated with revisions to master plans, development regulations or other regulations to conform them to the Regional Master Plan; and

**WHEREAS**, under Resolution 2008-73, the Highlands Council authorized the Executive Director to develop and implement a process for the solicitation and distribution of the Plan Conformance Grants in a total amount not to exceed \$7.5 million and up to \$100,000 allocation for each individual municipality for Basic Plan Conformance; and

**WHEREAS**, the Bylaws of the Highlands Council authorizes the Executive Director, as chief administrative officer, to approve contracts and issue payments up to \$25,000; and

**WHEREAS**, as directed, the Executive Director developed the Plan Conformance Grant Program, a program that splits Plan Conformance into the following seven steps or modules for administering the authorized grant funding: (1) and (2) Highlands municipal build-out analysis and report; (3) housing element and fair share plan; (4) Highlands environmental resource inventory; (5) master plan Highlands element; (6) Highlands Area land use ordinance; and (7) municipal Petition for Plan Conformance; and

**WHEREAS**, in the Township of Rockaway 17,789 acres are in the Preservation Area and 11,582 acres are in the Planning Area; and



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**WHEREAS**, on December 8, 2009, the Township of Rockaway submitted a Petition for Plan Conformance including two resolutions; one for all lands lying in the Preservation Area and one for all lands lying in the Planning Area; and

**WHEREAS**, on January 22, 2010, the Executive Director deemed the Petition for Plan Conformance administratively complete, and on February 1, 2010, posted the Petition documents on the Highlands Council website and thereafter commenced staff review of the Petition for consistency with the Regional Master Plan; and

**WHEREAS**, on August 17, 2010, the Executive Director provided the Township of Rockaway with a Draft Consistency Review and Recommendations Report, which provides the staff's assessment of the Petition for Plan Conformance, the level of conformance with the Regional Master Plan, and recommendations for any further actions necessary for Plan Conformance; and

**WHEREAS**, the Executive Director provided the Township of Rockaway with a deliberative municipal response period allowing the Township of Rockaway to review and respond to the Draft Consistency Review and Recommendations Report; and

**WHEREAS**, on December 15, 2010, the Executive Director completed the Final Draft Consistency Review and Recommendations Report, and posted a Public Notice, the Final Draft Consistency Review and Recommendations Report, and the complete Petition documents on the Highlands Council website for a public review and comment period with written comments due on or before January 18, 2011; and

**WHEREAS**, on February 10, 2011, the Executive Director posted the Final Consistency Review and Recommendations Report and Highlands Implementation Plan and Schedule on the Highlands Council website which addressed issues raised during the public comment period; and

**WHEREAS**, on February 17, 2011, the Highlands Council held a public hearing on the Township of Rockaway's Petition for Plan Conformance and provided an opportunity for public comment; and

**WHEREAS**, the Highlands Council accepts the recommendation of the Executive Director as stated in the Final Consistency Review and Recommendations Report; and

**WHEREAS**, according to the Highlands Act and the Plan Conformance Guidelines, the Township of Rockaway's compliance with an approved Final Consistency Review and Recommendations Report, the Highlands Implementation Plan and Schedule, the Highlands Plan Conformance Guidelines and the Highlands Act shall maintain the Township of Rockaway's status as conforming to the Regional Master Plan and all statutory benefits associated with Plan Conformance; and

**WHEREAS**, the Plan Conformance Guidelines recognizes that conformance in the Planning Area is voluntary under the Highlands Act and provides that the period of an approval of a Petition for Plan Conformance shall be for a period of no more than six (6) years, or until six (6) months after

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the completion of a reexamination by the Township of Rockaway of its master plan and development regulations as required by the Municipal Land Use Law, or until one (1) year after the Highlands Council adopts its six-year reexamination of the Regional Master Plan, whichever time period is the shorter; the six (6) month and one (1) year periods provided herein allowing time for the submittal and processing of petitions for a re-examination of Plan Conformance before the Highlands Council; and

**WHEREAS**, the Plan Conformance Guidelines provides that no amendment to any master plan or development regulations applicable to the development and use of land in the Township of Rockaway shall be effective until the Township of Rockaway has submitted such amendment to the Highlands Council and such amendment has been found by the Council to be in conformance with the Regional Master Plan, or the Executive Director has notified the Township of Rockaway that such amendment does not affect the Highlands Council's prior finding of Plan Conformance; and

**WHEREAS**, the Plan Conformance Guidelines provides that following the receipt of any amendment to the Township of Rockaway's master plan or development regulations, the Executive Director is required to determine whether or not the amendment raises a substantive issue with respect to the conformance of the municipal master plan or development regulations with the Regional Master Plan, and

**WHEREAS**, the Plan Conformance Guidelines provides that if the Executive Director determines no such substantive issue is raised with respect to an amendment, the Executive Director shall certify such fact and notify the Clerk of the Township of Rockaway and the Highlands Council, and shall provide notice on the Highlands Council website, and such amendment shall thereupon take effect in accordance with its terms and applicable law; and

**WHEREAS**, the Plan Conformance Guidelines provides that if the Executive Director determines that an amendment raises a substantive issue with respect to the conformance of the municipal master plan or development regulations to the Regional Master Plan, the amended municipal master plan or development regulations shall be reviewed in accordance with the Plan Conformance Guidelines; 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 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 hereby approves the Township of Rockaway's Petition for Plan Conformance with conditions as set forth in the Final Consistency Review and Recommendations Report and the Highlands Implementation Plan and Schedule; and

**BE IT FURTHER RESOLVED** that the Executive Director is authorized to make any amendments and publicly release the Final Consistency Review and Recommendations Report,



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Highlands Implementation Plan and Schedule, and amend the Plan Conformance Grant Agreement consistent with direction from the Highlands Council, to properly effectuate the intent of the Council and thereafter execute the Report, Schedule and Agreement on behalf of the Council; and

**BE IT FURTHER RESOLVED**, that the Township of Rockaway is hereby entitled to the statutory benefits associated with Plan Conformance as detailed in the Highlands Act, the Regional Master Plan and the Plan Conformance Guidelines, so long as the Township of Rockaway remains in conformance with the Regional Master Plan and to the extent such funds are made available by the State; and

**BE IT FURTHER RESOLVED**, the Executive Director is authorized, consistent with direction from the Council, to oversee and monitor the Township of Rockaway's compliance with this Resolution and to take any and all action necessary in coordination with the Highlands Council.

**CERTIFICATION**

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 17<sup>th</sup> day of February, 2011.

  
\_\_\_\_\_  
Jack J. Schrier, Acting Chairman

<u>Vote on the Approval of this Resolution</u>	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede			✓			
Councilmember Carluccio						✓
Councilmember Cogger			✓			
Councilmember Francis			✓			
Councilmember Holtaway		✓	✓			
Councilmember Kovach						✓
Councilmember Letts			✓			
Councilmember Richko	✓		✓			
Councilmember Vetrano						✓
Councilmember Visioli			✓			
Acting Chairman Schrier			✓			