

**TOWNSHIP COMMITTEE
APRIL 24, 2012 MINUTES**

The Tewksbury Township Committee met in a work session on the above date at the Municipal Building, Mountainville, NJ.

The meeting was called to order at 7:30 PM, roll call held and a quorum established. Mayor Dana Desiderio presided.

Other officials in attendance were Township Committee members Louis DiMare, Peter Melick, Shaun Van Doren and William Voyce.

Jesse Landon, Township Administrator and Roberta Brassard, Municipal Clerk were in attendance.

There were approximately fifteen members of the public in attendance.

1. Open Public Meetings Statement

The Open Public Meetings Statement was read by Mayor Desiderio.

2. Flag Salute

Those present stood and pledged allegiance to the American flag.

3. Public Participation

Brian Conner, Foreman of the Township DPW stated that his men met with Committeeman DiMare recently to voice some of their concerns in the department. Mr. Conner stated he understands the difficult economic times, but Township employees are now paying additionally for health benefits and are going into the third year of salary freezes.

In response to a question from Mr. Conner, Mayor Desiderio stated that there is money in the 2012 Budget for raises, but the amount has not been decided.

Mr. Conner requested that the Committee consider hiring full time employees as opposed to part time employees. He explained that much time and effort goes into training a new employee and when a full time employee leaves because of better pay and/or benefits, the training and knowledge goes with them. He added that it is often a frustrating cycle and he hopes to build a DPW staff that will work into the future for the benefit of the Township.

Mr. DiMare and Dr. Voyce agreed to meet with the men of the DPW to discuss additional concerns.

Mr. Conner also noted that there are equipment issues as the department has an aging fleet – he requested that funds be allocated to upgrade the fleet.

Mayor Desiderio noted that her reasoning for reinstating summer hours was to help boost morale among the staff and to help with some employees who travel a long distance to work.

George Cassa stated that the work being done by the DPW on the culvert on Rockaway Road is a good example of the excellent work done by the DPW crew.

4. Actions to be Taken

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➤ **Budget Public Hearing**

Mr. Van Doren made a motion to open the Public Hearing on the 2012 Budget, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Ms. Brassard provided proof of publication from the 04/13/12 Courier News.

Mr. Van Doren made a motion to close the Public Hearing on the 2012 Budget, seconded by Mr. Melick. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren stated that every year the Township has to deal with more State imposed constraints, declining revenue and a declining interest on investments. He stated that creating the 2012 Budget is a balancing act and he thanked all departments for maintaining their expenses in 2011. He added that the Township has presented a good Budget, taxes will be raised by \$.01 and the Township has lived under the State's requirements regard the CAP. He noted that shared services and working in a cooperative effort will continue in coming years.

Mr. Melick noted that even though spending is down, there still is long term debt that needs to be paid.

Mr. Van Doren made a motion to adopt the 2012 Budget, seconded by Mr. Voyce. A roll call vote was taken and the motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

➤ **Ordinance Public Hearing**

• **Ordinance #02-2012**

Mr. Van Doren made a motion to open the Public Hearing on Ordinance #02-2012, seconded by Mr. DiMare. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Ms. Brassard provided proof of publication from the 04/02/12 Courier News and a letter from the Land Use Board noting their review of the Ordinance and finding it not inconsistent with the Master Plan.

Hank Klumpp stated that he owns 150 acres in the Highlands preservation area, noting that the Highlands Check List Ordinance amends the Township DRO to be in line with the Highlands Regional Master Plan. Mr. Klumpp noted that he has been to many Highlands Council meetings over the past eight years and the members come and go. He questioned how the Township Committee can let the Highlands Council members make decision for Tewksbury, adding that there is no home rule in the State anymore. He surmised that the Highlands Council enjoys the fact that that the Highlands Act continues to be in charge of individual municipalities, adding that Tewksbury has turned into a park. Mr. Klumpp opined that the Highlands Act was created purely by politicians and not to save water, as the Act implies.

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He questioned if the Highlands Council would say that his farm, Hidden Acres, would become a property open to the public, adding that they control all other aspect of his farm and he was been robbed of his property values.

In response to a question from Mr. Van Doren, Mr. Klumpp stated that he has never applied for farmland preservation through either the municipality, County or State programs. Discussion followed regarding the direct easement/farmland preservation programs and how many Township residents have benefitted.

Mr. Melick added that the farmland preservation program is not for everyone and the program should not be used as a “take it now or don’t get it” program. He added that many farm property owners have associated family and estate issues that do not allow for putting a property in preservation and the amount of imposed restrictions is often burdensome.

Dr. Voyce stated that one of the biggest matters with which he has wrestled is the fact that the affected farmers have received no compensation for the loss of their property values for the past eight years.

Basil Hone noted that the Checklist Ordinance applies to the Preservation Area for which the Township has no option regarding opting in or not. The Highlands Act states that municipalities in the Preservation Area have to comply with the Ordinance.

John Runnells opined that the Highlands Act is not about preservation, the environment or open land: it is about power and handing over the control of local government to a large bureaucracy. He stated that government is best that is closest to the constituents and advised the Township Committee not to let this power go astray. He noted that new Township Committee members can be elected – new DEP members cannot, adding that if the DEP becomes the go-to entity for matters related to the sale of homes it would not be a good situation for the citizens of Tewksbury.

There being no additional comments from the public, Mr. Van Doren made a motion to close the Public Hearing on Ordinance #02-2012, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren moved adoption of Ordinance #02-2012, seconded by Mr. DiMare.

Mr. Melick noted a recent article in the Hunterdon Review entitled “Tewksbury to Trenton-Hands Off Our Government.” This article addressed proposed changes to the Open Public Meeting Act and Open Public Records Act and Tewksbury’s opposition to more government. He opined that opting in the Highlands planning area is not in the best interest of the citizens of Tewksbury, there are major changes in the makeup of the Highlands Council and there is no need to rush into opting in. He stated that the amount of additional bureaucracy is mind boggling.

A roll call vote was taken and the above noted motion was approved. Ayes: Desiderio, DiMare, Van Doren. Nays: Melick, Voyce.

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**TOWNSHIP OF TEWKSBURY
HUNTERDON COUNTY, NEW JERSEY**

ORDINANCE #02-2012

**AN ORDINANCE OF THE TOWNSHIP OF TEWKSBURY, COUNTY OF HUNTERDON,
STATE OF NEW JERSEY,
TO AMEND, REVISE AND SUPPLEMENT ARTICLE V OF THE TEWKSBURY TOWNSHIP
DEVELOPMENT REGULATIONS ORDINANCE
BY INCLUDING A NEW SECTION 519 ENTITLED
APPLICATIONS FOR DEVELOPMENT IN THE HIGHLANDS**

WHEREAS, the Highlands Water Protection and Planning Act (“Highlands Act,” N.J.S.A. 13:20-1 et seq.) was enacted by the State Legislature on August 10, 2004 for the purpose of protecting, enhancing, and restoring the natural resources of the New Jersey Highlands Region, in particular the water resources, which provide drinking water to over 5 million New Jersey residents; and

WHEREAS, the Highlands Act created the Highlands Water Protection and Planning Council (the “Highlands Council”) and charged it with crafting a comprehensive master plan for the New Jersey Highlands Region; and

WHEREAS, the Highlands Regional Master Plan was adopted by the Highlands Council through the adoption of Resolution 2008-27 on July 17, 2008, and became effective on September 8, 2008 as the product of a long-term, participatory, and region-wide planning effort; and

WHEREAS, Resolution 2008-27 included the adoption of Highlands Regional Master Plan as well as the adoption of various technical reports and guidelines that accompanied the Plan including the 2008 Plan Conformance Guidelines; and

WHEREAS, the Plan Conformance Guidelines provides an overview of the Highlands Act’s bifurcated system for municipal conformance with the Highlands Regional Master Plan – mandatory Plan Conformance for any portion (or if applicable, the whole) of a municipality located within the Preservation Area and voluntary Plan Conformance for any portion (or if applicable, the whole) of a municipality lying within the Planning Area; and

WHEREAS, Section 14 of the Highlands Act expressly requires that municipalities must revise and conform their local master plan and development regulations for that portion of their lands within the Preservation Area, as related to development and use of said lands, with the goals, requirements and provisions of the Regional Master Plan within 15 months of the effective date 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 at any time voluntarily revise and conform its local master plan and development regulations, as related to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan; and

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WHEREAS, the Plan Conformance Guidelines details the requirements for Plan Conformance including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources; and

WHEREAS, the Plan Conformance Guidelines requires conforming municipalities to adopt Initial Revisions as a first step of Plan Conformance; the initial revisions are revisions of the existing master plan and development regulations which are deemed necessary by the Highlands Council for prompt enactment by a petitioning local government in order to ensure the protection and enhancement of the resources of the Highlands Region; and

WHEREAS, the Plan Conformance Guidelines includes the adoption of a Development Application Checklist Ordinance as an Initial Revision in order to ensure that any Application for Development not be deemed complete until such time as certain documents have been submitted by the Applicant and to ensure that Applications for Development are consistent or revised to be consistent with the Regional Master Plan; and

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

WHEREAS, the Township Committee of the Township of Tewksbury has, on behalf of the municipality, petitioned the Highlands Council for Plan Conformance with respect to Township lands located within both the Planning Area portion and the Preservation Area portion of the Highlands Region; and

WHEREAS, the Petition filed with the Highlands Council contains proposed amendments to the municipal planning program, including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources located within the Township; and

WHEREAS, the Township Committee finds that the proposed changes to the municipal planning program are of broad and significant effect, are vital to the protection of the Highlands resources of the municipal Highlands Area, and are compelling to the interests and general welfare of the community; and

WHEREAS, the Township Committee recognizes that the formal municipal adoption of each component of the revised planning program must take place, in sequential order in accordance with all statutory requirements, involving public hearings and deliberation by the Environmental Commission, Land Use Board, and Township Committee; a process that will require an additional undetermined period of time; and

WHEREAS, the Township Committee is aware that lands within the Planning Area are not regulated by the New Jersey Department of Environmental Protection's Preservation Area Rules (N.J.A.C. 7:38-1 et seq.) and, with the exception of Wastewater Management Plans and Water Allocation Permits, would remain without the full suite of Highlands Regional Master Plan

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protections during the interim period between the date of filing of the Petition for Plan Conformance and the adoption of ordinances and regulations that will provide such protections; and

WHEREAS, an immediate level of protection to the resources located within the Highlands Region by adoption of revised submission requirements pertinent to Applications for Development therein is required by the Plan Conformance Guidelines; and

WHEREAS, the adoption of revised submission requirements pertinent to Applications for Development therein is essential to ensuring that Applicants achieve compliance with the standards and protections required under the Highland Regional Master Plan despite the interim status of the municipal Plan Conformance ordinances and regulations, this interim period not constituting an appropriate instance in which municipal approvals based upon existing municipal regulatory requirements, can appropriately be issued conditioned upon subsequent approval by the Highlands Council or the New Jersey Department of Environmental Protection (NJDEP), as may occur under usual circumstances; and

WHEREAS, the Township Committee finds that the adoption of such submission requirements are important not only to provide such immediate resource protections, but to ensure the proper management of Applications for Development involving lands within the Highlands Area of the municipality; and

WHEREAS, the Highland Council deems the immediate protections ascribed by this Ordinance to lands in the Planning Area and the Preservation Area of the municipality, eligible for application of the provisions of the Highlands Act at N.J.S.A. 13:20-22 and N.J.S.A. 13:20-24 regarding legal representation to municipalities filing for Plan Conformance and regarding the strong presumption of validity and extraordinary deference afforded to such ordinances;

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Tewksbury that the Development Regulations Ordinance of the Township of Tewksbury be and is hereby amended to incorporate the following provisions:

§519 entitled “Applications for Development in the Highlands” shall be added to read:

SECTION 1

A. APPLICATIONS FOR DEVELOPMENT.

No Application for Development (as defined pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) involving property located in the Township of Tewksbury for which application submission requirements apply under this Ordinance, shall be deemed complete or considered for review by the Township Land Use Board until and unless the Applicant has obtained and provided a copy of:

1. A Consistency Determination from the Highlands Council indicating that the application is consistent with the Highlands Regional Master Plan; or
2. A Consistency Determination from the Highlands Council indicating that the application is not consistent with the Highlands Regional Master Plan, accompanied by a

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certification, as detailed in Section 1.B below, by the Applicant's professional(s) that the application has been revised since review by the Highlands Council to achieve consistency with the Highlands Regional Master Plan.

B. FINDINGS OF INCONSISTENCY. Where a Highlands Council Consistency Determination indicates that an Application for Development is inconsistent with the Highlands Regional Master Plan, no such application shall be deemed complete or considered for review by the applicable Township's Land Use Board, until or unless the Applicant has obtained from the professional(s) responsible for preparation of the Applicant's plans, a certification indicating that to the best of the knowledge and abilities of such professional(s), the plans have been revised to achieve consistency with the Highlands Regional Master Plan and specifically describing the revisions made to achieve such consistency.

C. EXCLUSIONS. The following specific improvements and related applications shall be excluded from the provisions of this Section:

1. Any improvement to a single family dwelling in lawful existence as of the effective date of this Ordinance, provided that such improvement: a) is related and dedicated solely to the single-family residential use of either the dwelling or the property upon which it is situated; b) results in results in the ultimate disturbance of less than one (1) acre of land; and c) produces a cumulative impervious surface area of less than one-quarter ($\frac{1}{4}$) acre.
2. The reconstruction, within the same footprint, of any building or other structure lawfully existing as of the effective date of this Ordinance, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.
3. The repair or maintenance of any building or other structure lawfully existing as of the effective date of this Ordinance. This exclusion shall not be construed to permit repairs or maintenance activities that alter the footprint of such building or structure.
4. The interior improvement, rehabilitation, or modification of any building or other structure lawfully existing as of the effective date of this Ordinance. This exclusion shall not be construed to permit activities that alter the footprint of such building or structure.
5. The attachment of signs or other ornamentation to any building or structure, to the installation of windows, doors, chimneys, vents, shafts, heating, ventilation, or air conditioning equipment, or to any other such improvement to a building or structure provided it occupies a surface area footprint of not more than 50 square feet. This exclusion shall not be construed to permit ultimate disturbance or cumulative impervious surface in excess of that provided at 1, above, for single-family dwellings.
6. Any improvement or alteration to a building or other structure lawfully existing as of the effective date of this Ordinance, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.

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7. Any activity, improvement or development project located (or partially located) in the Preservation Area for which a Highlands Applicability Determination is not required as a pre-condition of NJDEP permitting, as provided pursuant to N.J.A.C. 7:38-2.4(b)1 through 2.4(b)10.

D. EXEMPTIONS. Any activity, improvement or development project listed and demonstrated to constitute a Highlands Act exemption shall be exempt from the provisions of this Section.

1. Demonstration of a Highlands Act exemption for an Application for Development involving lands located (or partially located) in the Preservation Area shall consist of a Highlands Applicability Determination issued by the NJDEP pursuant to N.J.A.C. 7:38-2.4.
2. Demonstration of a Highlands Act exemption for an Application for Development involving lands located wholly in the Planning Area shall consist of a Highlands Exemption Determination issued by the Highlands Council.

E. WAIVER. The Township may issue a waiver from the provisions of this Section where it can be established by the Applicant and can be verified by the designated representative(s) of the Township that:

1. The activity, improvement or development proposed by the subject Application for Development has not yet been formally determined to be exempt from the Highlands Act, but eligibility for an exemption has been sufficiently established by the Applicant; or
2. The activity, improvement or development proposed in the Application for Development will neither encroach upon a Highlands Resource or Highlands Resource Area, nor be of detrimental impact to any Highlands resource or Highlands Resource Area as these are identified and delineated in the Highlands Regional Master Plan. The Applicant's professional(s) responsible for preparation of the Applicant's plan shall establish compliance of the above through a formal certification specifically addressing the Highlands Resources and Resource Areas and related policies and objectives as identified in Chapter 4 of the Highlands Regional Master Plan.

F. HIGHLANDS COUNCIL CALL-UP. All municipal waivers or findings of application completeness issued pursuant to this Section shall be subject to Highlands Council call-up review and the municipality shall specifically include conditions of this review consistent with this paragraph. In all such cases, the municipality shall within five (5) calendar days of issuance, provide notice to the Applicant and to the Highlands Council of any waiver or finding of application completeness made pursuant to this Section. The Highlands Council call-up review period shall expire 15 calendar days following its receipt of such notice. Absent any notice to the municipality from the Highlands Council within that timeframe, the application shall be considered complete, with the date of the waiver or application completeness to be as of the date of first issuance by the municipality. Upon determining to exercise this authority for call-up review, the Highlands Council shall transmit notice to the Applicant and the municipality.

G. DEFINITIONS. For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this

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Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

Applicant – means any entity applying to the Board of Health, Land Use Board, Zoning Officer, Construction Official or other applicable authority of the municipality for permission or approval to engage in an activity that requires an Application for Development.

Application for Development – means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permits pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).t

Disturbance – means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

Disturbance, Ultimate – means the total existing or proposed area of disturbance of a lot, parcel, or other legally designated (or otherwise legally recognized) tract or subdivision of land, for the purpose of, and in connection with, any human activity, property improvement, or development, including the surface area of all buildings and structures, all impervious surfaces, and all associated land disturbances such as excavated, filled, and graded areas, and all lawn and landscape areas. Ultimate disturbance shall not include areas of prior land disturbance which at the time of evaluation: a) contain no known man-made structures (whether above or below the surface of the ground) other than such features as old stone rows or farm field fencing; and b) consist of exposed rock outcroppings, or areas which, through exposure to natural processes (such as weathering, erosion, siltation, deposition, fire, flood, growth of trees or other vegetation) are no longer impervious or visually obvious, or ecologically restored areas which will henceforth be preserved as natural areas under conservation restrictions.

Highlands Council – means the New Jersey Highlands Water Protection and Planning Council.

Highlands Act – means the Highlands Water Protection and Planning Act, P.L. 2004, c.120, as amended, codified in part at N.J.S.A. 13:20-1 *et seq.*

Highlands Applicability Determination – means the determination made by the NJDEP of whether a project proposed for the Preservation Area is a major Highlands development, whether any such major Highlands development is exempt from the Highlands Act, and whether the project is consistent with the applicable Areawide Water Quality Management Plan.

Highlands Area – means that portion of the municipality for which the land use planning and regulation are in conformance with, or are intended or proposed to be in conformance with, the Highlands Regional Master Plan.

Highlands Region – means all that area within the boundaries of the municipalities listed in subsection a. of section 7 of the Highlands Act.

Impervious Surface – means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, including, but not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

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Impervious Surfaces, Cumulative – means the total area of all existing or proposed impervious surfaces situated or proposed to be situated within the boundary lines of a lot, parcel, or other legally recognized subdivision of land, expressed either as a measure of land area such as acreage, or square feet, or as a percentage of the total lot or parcel area.

Municipal Land Use Law (MLUL) – means the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

NJDEP – New Jersey Department of Environmental Protection

NJDEP Preservation Area Rules – means the regulations established by the NJDEP to implement requirements of the Highlands Act, titled “Highlands Water Protection and Planning Act Rules,” and codified at N.J.A.C. 7:38-1 et seq.

Planning Area – means lands within the Highlands Region not within the Preservation Area (N.J.S.A. 13:20-7).

Plan Conformance – means the process by which a municipality revises the master plan, development regulations and other regulations related to the development and use of land to conform them with the goals, requirements, and provisions of the Regional Master Plan in accordance with the Highlands Plan Conformance Guidelines.

Preservation Area – means that portion of the Highlands Region so designated by subsection b. of section 7 of the Highlands Act.

Regional Master Plan – means the Highlands Regional Master Plan or any revision thereof adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8.

Structure – A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

SECTION 2

Copies of this Ordinance are on file in the office of the Township Clerk, located at: 169 Old Turnpike Road, Califon, New Jersey for public inspection or purchase during regular weekday business hours (8:30 a.m. to 4:00 p.m.).

SECTION 3

The Township Clerk is directed to give notice at least ten days prior to the hearing on the final adoption of this Ordinance to the clerks of all adjoining municipalities and the Hunterdon County Planning Board, and to all others entitled to notice under N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63. Upon final passage of this Ordinance, the Township Clerk is further directed to publish notice of passage and to file a copy of this Ordinance as finally adopted with the Hunterdon County Planning Board as required by N.J.S.A. 40:55D-16.

SECTION 4

If any portion, paragraph, clause, sentence or phrase of this Ordinance is determined to be invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining portions of this Ordinance.

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SECTION 5

All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 6

This Ordinance shall take effect after final passage and publication in the manner prescribed by law.

Dana Desiderio
Mayor

- **Ordinance #03-2012**

Mr. Van Doren made a motion to open the Public Hearing on Ordinance #03-2012, seconded by Mr. DiMare. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Ms. Brassard provided proof of publication from the 04/02/12 Courier News.

In response to a question from Mr. Klumpp, Mr. Melick explained that adoption of Ordinance #03-2012 means that the Township has opted in to the Planning Area. Mr. Klumpp stated that this action will impose the same restrictions that currently exist in the Preservation area to properties in the Planning area.

Mr. Klumpp questioned which Committee members ever attended any Highlands Council meetings, adding that until a person goes to a meeting, they cannot fully understand what happens. He opined that once the Township opts into the Planning area, the Township has lost everything, adding that the people who live in Tewksbury know what is best, as opposed to the members of the Highlands Council. He noted that everyone currently living in the Township is here because the land was once owned by a farmer who sold the land.

He reiterated that the reason for establishing a Highlands Council and delineating the Preservation and Planning areas is totally political and there is no scientific information regarding saving water to substantiate the action.

Mr. Cassa noted that section 6 of Ordinance #03-2012 entitled "Reserved Right of Withdrawal for Planning Area" allows for a reversible decision should the Committee wish to opt out of the Planning area.

There being no additional comments from the public, Mr. Van Doren made a motion to close the Public Hearing on Ordinance #03-2012, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren moved adoption of Ordinance #03-2012, seconded by Mr. DiMare.

Mr. Melick reiterated his concern with rushing in to opting into the Planning area and thanked Mr. Klumpp for his comments. He questioned rushing into the decision of opting in as it will

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penalize the remaining 1/3 of the Township. He added that there is major turmoil and turn over in the Highlands Council and nothing is being gained by opting in now.

Discussion followed following Mr. Van Doren's statement regarding how the new Executive Director of the Highlands Council was hired. Mr. Van Doren stated that he was "mystified" as to how this hiring was executed without advertising or interviewing.

Mr. Dimare stated that he did not feel the process for deciding whether or not to opt in was done in a rushed manner and that numerous reports from various professionals were received and reviewed.

A roll call vote was taken and the above noted motion was approved. Ayes: Desiderio, DiMare, Van Doren. Nays: Melick, Voyce.

**TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON
ORDINANCE #03-2012**

**ORDINANCE TO PETITION THE HIGHLANDS COUNCIL FOR PLAN CONFORMANCE FOR
THE PLANNING AREA**

Section 1 Purpose

The Township of Tewksbury is located partially within that portion of the New Jersey Highlands Region defined by the Highlands Act, as the "Planning Area" (see definitions, below). This Ordinance is enacted pursuant to Section 15.a. of the Highlands Water Protection and Planning Act (Highlands Act, N.J.S.A. 13:20-1 et seq.), which provides that a municipality may choose to conform its master plan, development regulations, and other regulations to the provisions of the Highlands Regional Master Plan, with respect to lands located within the Planning Area, and by Ordinance, petition the New Jersey Highlands Water Protection and Planning Council (Highlands Council) for Plan Conformance approval of such planning and regulatory documents.

By adoption of this Ordinance, the Township Committee of the Township of Tewksbury establishes that the municipality shall conform its master plan, development regulations, and all other regulations applicable to the use and development of land within the Planning Area of the municipality, to achieve consistency with the goals, requirements, and provisions of the Highlands Regional Master Plan. Said conformance shall be in accordance with the provisions of Highlands Council approval of the municipality's Petition for Plan Conformance, which was previously submitted to the Highlands Council by Resolution adopted by the Township Committee on December 8, 2009, and which the Highlands Council approved with certain conditions by Highlands Council Resolution No.2011-9, adopted on February 17, 2011. Further, this Ordinance specifically reserves the rights of the municipality as specified by the Highlands Act, with respect to the voluntary nature of Plan Conformance for the Planning Area.

Section 2 Basis and Background

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The Highlands Act finds and declares that protection of the Highlands Region is an issue of State level importance because of its vital link to the future of the State's drinking water supplies and other significant natural resources. The Highlands Act creates a coordinated land use planning system requiring the Highlands Council to prepare and adopt a Regional Master Plan that serves to protect, restore and enhance the significant resources the Highlands Region. The Highlands Act sets forth a bifurcated system for municipal conformance with the goals, requirements and provisions of the Regional Master Plan. Pursuant to Section 14.a. of the Highlands Act, a municipality located wholly or partially in the Preservation Area was required to submit by December 8, 2009 a revised municipal master plan, development regulations and other regulations, as applicable to the development and use of land in the Preservation Area, to conform them with the Regional Master Plan.

Pursuant to Section 15.a. of the Highlands Act, for a municipality located wholly in the Planning Area or for any portion of a municipality lying within the Planning Area, the municipality may submit at any time a revised master plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, that conforms with the Regional Master Plan. Plan Conformance by a municipality is strictly voluntary for lands in the Planning Area.

Consequently, the Township of Tewksbury, having lands in the Planning Area of the Highlands Region, did submit as part of a Petition for Plan Conformance to the Highlands Council on December 8, 2009, proposed draft revisions to the master plan, development regulations and other regulations that relate to the development and use of land in the Planning Area. On February 17, 2011 the Highlands Council adopted Resolution No. 2011-9 approving the Township of Tewksbury's Petition for Plan Conformance. The approval was conditioned upon the Township of Tewksbury's adoption of an ordinance pursuant to Section 15a of the Highlands Act, formally petitioning the Highlands Council for Plan Conformance for lands within the Planning Area.

Section 3 Applicability

This Ordinance applies to the development and use of land located in the Planning Area of the Township of Tewksbury, as defined by Section 7 of the Highlands Act.

Section 4 Definitions

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Highlands Council – means the New Jersey Highlands Water Protection and Planning Council.
Highlands Act – means the Highlands Water Protection and Planning Act, P.L. 2004, c.120, as amended, codified in part at N.J.S.A. 13:20-1 *et seq.*

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Highlands Region means all that area within the boundaries of the municipalities listed in subsection a. of section 7 of the Highlands Act.

Planning Area - means lands within the Highlands Region not within the Preservation Area (N.J.S.A. 13:20-7).

Plan Conformance – means the process by which a municipality revises the master plan, development regulations and other regulations related to the development and use of land to conform them with the goals, requirements, and provisions of the Regional Master Plan in accordance with the Highlands Plan Conformance Guidelines.

Preservation Area – means that portion of the Highlands Region so designated by subsection b. of section 7 of the Highlands Act.

Regional Master Plan– means the Highlands regional master plan or any revision thereof adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8.

Section 5 Petition for Plan Conformance

The Township of Tewksbury hereby formalizes its Petition for Plan Conformance to the Highlands Council, declaring it fully effective for lands in the Planning Area of the municipality, said Petition having been approved by the Highlands Council subject to the conditions as set forth in Highlands Council Resolution No. 2011-9, adopted on February 17, 2011.

Section 6 Reserved Right of Withdrawal for Planning Area

At any time, the Township of Tewksbury may withdraw that portion of its Petition for Plan Conformance for the Planning Area. In such event, any approvals, rejections or conditions of the revised municipal master plan, development regulations or other regulations that pertain to the Planning Area, as set forth by the Highlands Council in approving Resolution No. 2011-9, will not be binding upon the Township of Tewksbury. Any such withdrawal, should it occur, shall require repeal of this Ordinance, and shall be followed by formal notification to the Highlands Council, sent within ten (10) days of adoption by certified mail and including a certified copy of such repealing ordinance.

Section 7 Planning Grants and Technical Assistance

Upon application of the Township of Tewksbury, the Highlands Council has made, or will make, grant funding and other financial and technical assistance available to the Township of Tewksbury for the reasonable costs associated with the revision of the master plan, development regulations or other regulations, which revisions are designed to bring those plans and regulations into conformance with the Regional Master Plan. The Highlands Council shall provide grant funds for all mandatory aspects of Plan Conformance in accordance with the Plan Conformance Grant Program, and may also provide grant funds for the discretionary aspects of Plan Conformance as determined by the Highlands Council. As Plan Conformance for lands in the Planning Area is strictly voluntary, the Township of Tewksbury retains the right to withdraw that portion of the Petition relating to lands lying in the Planning Area from the Plan Conformance process at any time.

Section 8 Effective Date

This ordinance shall take effect immediately upon final passage, approval, and publication as

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required by law.

Dana Desiderio
Mayor

➤ **Consent Agenda**

Mr. Melick requested that the following be removed from the Consent Agenda.

- Authorization to have the Clerk sign NJ Fireman's Association membership application for Samuel White

Dr. Voyce requested that the following be removed from the Consent Agenda.

- Authorization to have Mayor sign letter for allowing helicopter land at PAB on 6/14/12

Mr. DiMare requested that the following be removed from the Consent Agenda.

- Executive session minutes of 04-10-12

Dr. Voyce moved adoption of the Consent Agenda as amended, seconded by Mr. Melick. A roll call vote was taken and the motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

**TOWNSHIP OF TEWKSBURY
REGARDING THE HUNTERDON COUNTY OPEN SPACE TAX**

RESOLUTION #50-2012

WHEREAS, the Hunterdon County Board of Chosen Freeholders declared by Resolution dated August 5, 2008, that open space, agricultural lands and historic structures are an important part of the heritage of Hunterdon County and are rapidly decreasing at an accelerated rate; and

WHEREAS in November of 2008, voters of Hunterdon County overwhelmingly approved the Hunterdon County Open Space, Recreation, Farmland and Historic Preservation Trust Fund to be funded by the continuation of the existing annual tax assessment not to exceed three cents per \$100; and

WHEREAS 3 out of 4 Hunterdon County voters who overwhelmingly approved this Open Space tax did so with the confidence that these funds would provide a stable and consistent source of funding for the purchase of open space, farmland easements and historic preservation projects in the future and would not be subject to political forces from year to year; and

WHEREAS it has come to our attention that the Freeholders propose major changes to the funding of the Trust Fund that could seriously compromise the preservation program's ability to protect Hunterdon's valuable natural and cultural resources, that is; use of the dedicated funding to pay administrative salaries; use of Trust Funds to pay off debt incurred prior to establishing the dedicated tax; reduction of the funding for the Trust Fund from 3 to 2 cents; and

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WHEREAS these changes, when taken together, will seriously compromise the ability of the Program to adequately protect Hunterdon County's wonderful open spaces, pristine water resources, rolling farmland and culturally significant historic sites; and

WHEREAS reduced funding will curtail efforts to expand and enhance recreational opportunities provided by the Hunterdon County Park System in the future; and

WHEREAS maintaining adequate levels of local preservation funding annually triggers millions of dollars of State and Federal preservation money otherwise lost to Hunterdon County; and

WHEREAS the preservation programs supported by the Hunterdon County Open Space, Recreation, Farmland and Historic Preservation Trust Fund provides residents their best hope of preserving what makes Hunterdon County a great place to live and work.

NOW THEREFORE BE IT RESOLVED that the Township Committee of the Township of Tewksbury in the County of Hunterdon hereby supports the current three-cent assessment level for the Hunterdon County Open Space, Recreation, Farmland and Historic Preservation Trust Fund; and

BE IT FURTHER RESOLVED that Board of Chosen Freeholders should make every effort to utilize the current fund in a way that best supports local preservation partners, including local governments and non-profit organizations, so as to maximize State and Federal preservation matching funds, and insure the continued success of all preservation efforts in Hunterdon County.

Dana Desiderio
Mayor

**RESOLUTION #51-2012
TONNAGE GRANT APPLICATION RESOLUTION**

WHEREAS, the Mandatory Source Separation and Recycling Act, PL 1987, c 102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

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WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a Resolution authorizing this municipality to apply for the 2011 Recycling Tonnage Grant will memorialize the commitment of this municipality to recycling and to indicate the assent of the Township Committee to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a Resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Kathleen Bross, Certified Recycling Professional to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

Dana Desiderio
Mayor

MISCELLANEOUS

- Claims as submitted by the CFO
- Regular minutes of 04-10-12

ITEMS REMOVED FROM THE CONSENT AGENDA

Mr. Van Doren made a motion authorizing the Mayor to sign a letter regarding a helicopter landing at the PAB on 6-14-12, seconded by Mr. Melick. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren. Nays: None. Abstain: Voyce.

- Authorization to have Mayor sign letter for allowing helicopter land at PAB on 6/14/12

Mr. Van Doren made a motion authorizing the Clerk to sign the NJ Fireman's Association membership application for Samuel White, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Van Doren, Voyce. Nays: None. Abstain: Melick.

- Authorization to have the Clerk sign NJ Fireman's Association membership application for Samuel White

The Executive Session minutes of 04-10-12 will be discussed in Executive Session.

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➤ **Ordinance Introduction**

Mr. Van Doren made a motion to introduce Ordinance #07-2012, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren noted that the Ordinance should be forwarded to the Land Use Board for consistency review and to the Scenic Roads and Bridges Commission for review.

The Public Hearing is scheduled for 05-22-12.

**TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON
ORDINANCE # 07-2012**

AN ORDINANCE TO FUND FOX HILL ROAD RESTORATION

###

Mr. Van Doren made a motion to introduce Ordinance #08-2012, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren noted that the Ordinance should be forwarded to the Land Use Board for consistency review and to the Scenic Roads and Bridges Commission for review.

The Public Hearing is scheduled for 05-22-12.

**TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON
ORDINANCE # 08-2012**

AN ORDINANCE TO FUND ROAD IMPROVEMENTS

###

Mr. Van Doren made a motion to introduce Ordinance #09-2012, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren noted that the Ordinance should be forwarded to the Land Use Board for consistency review.

The Public Hearing is scheduled for 05-22-12.

**TOWNSHIP OF TEWKSBURY
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ORDINANCE # 09-2012**

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**AN ORDINANCE TO FUND FORCED MAIN REPAIRS AT THE HUNTERS GLEN
SEWER UTILITY**

###

Mr. Van Doren made a motion to introduce Ordinance #10-2012, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren noted that the Ordinance should be forwarded to the Land Use Board for consistency review.

The Public Hearing is scheduled for 05-22-12.

**TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON
ORDINANCE # 10-2012**

**AN ORDINANCE TO FUND DEPARTMENT OF PUBLIC WORKS EQUIPMENT
ACQUISITION**

###

5. Work Session Topics

➤ **Historic Preservation Commission (HPC)**

Mike Scheier, Chairman of the HPC presented a memo listing discussion items that the HPC would like the Township Committee to consider for additional HPC review. Mr. Scheier noted that an applicant will come to the HPC for any exterior structural change only if a construction permit has been issued. The HPC would like to see applications for doors and door openings, windows, shutters, walls and fences and porch post so that the application may be reviewed before anything untoward or not in keeping with an historic structure occurs. Mr. Scheier suggested amending the existing Ordinance to include the above noted items and adding their review to the duties of the HPC.

In response to a question by Dr. Voyce, Mr. Scheier stated that an applicant would not have to come to the HPC if they were replacing a door, as no construction permit would be needed. He reiterated that amending the existing Ordinance or requiring stronger wording from the zoning officer would be beneficial.

Further discussion followed regarding porch post replacement: specifically with regard to material. Mr. Scheier noted that the HPC exists to guide and advise applicants and to keep a structure so that it is in keeping with the historic area.

In response to a question from Mr. Melick, Mr. Scheier stated that leniency is often granted with regard to roof repair/replacement. He noted that there are manmade shingles that mimic slate and are often used on historic structures. Mr. Melick added that he is not in favor of amending the Ordinance at the present time.

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Mr. Scheier reiterated that the HPC oversees broad exterior changes, and they wish to become involved in a project before work is done that is detrimental to the historic aspect of the structure.

In response to a question from Mayor Desiderio, Mr. Scheier noted that one of the biggest problems the HPC encounters is the use of plastic material for fences, siding, trim and /or windows.

In response to Mr. Melick's statement that many of the applicants coming to the HPC could be elderly and not used to going to meetings, Mr. Scheier noted that the HPC often has meetings on site to review the application first hand. Mr. Melick suggested finding alternate ways to get information out to the owners of historic structures that would be helpful and educational.

Jan Clark, HPC member, noted that contractors often attend meetings for applicants. She added that the design guidelines are available to review at the PAB and the local library and it is beneficial for the applicant to review these guidelines prior to making a decision.

Discussion followed as to the most effective way to get the information out to the public.

Mr. Van Doren noted that the Construction Official refers applicants to the HPC. He added that the HPC could create a mailing to the owners of historic properties indicating the availability of the historic guidelines which are also located in the Township DRO, and mentioning the five items as outlined in the afore mentioned memo. He surmised that the guidelines may have to be updated for the document.

Additional comments were heard regarding the designation of local historic districts. Mr. Scheier noted that work needs to be done regarding this matter and there are associated costs. He will speak with Dennis Bertland to determine the costs involved and bring this information back to the Committee.

Mrs. Clark noted that there is work being done in historic districts without proper permits.

Mr. Scheier thanked the Mayor for inviting the HPC to the meeting and added that they are not trying to tell people what to do, but are acting as a guide and are trying to preserve the historic districts in the Township.

➤ **Forestry Advisory Board (FAB)**

Teddy Murphy Chairwoman of the FAB was present to explain the history of and the work done by the FAB to the Committee.

She had two main points to present to the Committee.

- How does FAB interface with other committees and commissions, especially those with woodland resources?
- How does FAB reconcile the fact the FAB was initially created for a three year term and the State requires a five year commitment and the existence of a permanent Shade Tree Commission?

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Mr. Van Doren stated that he would like to see the minutes of the Township Committee meeting that authorized the creation of the FAB for only three years. He added that the Township Committee does not want any additional commissions.

Mrs. Murphy noted that the FAB has not been a financial burden to the Township as most of the activities and associated items have been donated by various individuals. She noted that the FAB has done what the State expects without the creation of a permanent shade tree commission.

Discussion followed regarding how to address the matter related to the length of time for which the FAB was created.

Dr. Voyce noted that the FAB has done good work since being created and would like to keep the Board into the future.

Additional comments were made regarding the makeup of the FAB, interfacing with other groups and how best to coordinate the various groups. Mrs. Murphy stated that the FAB would like to include a student member as they do so much with the students of the Township. Mrs. Murphy also noted that there workshops available through Rutgers that are needed for CEU's for maintaining Tree City status.

Tom Schroth, a member of the FAB thanked the mayor for her involvement with the JCP&L tree cutting matters. He stated that he would like the FAB to "provide eyes and ears for future cutting" and wished JCP&L to understand that they are on their (FAB's) radar.

Mayor Desiderio noted that she spoke with John Anderson, JCP&L Area Manager and was advised that he will let her know two weeks prior to any new tree cutting. She added that he has been very cooperative with regard to viewing marked trees.

Mrs. Murphy stated that the FAB used to meet with tree companies for the utilities and Mr. Benson prior to any cutting and this was very beneficial. She added that many of the trees that were cut or slated to be cut were located on scenic roads on private properties and the home owners did receive notification from JCP&L prior to cutting.

Mr. Schroth noted that some trees are cut and left with only a half a trunk remaining and he would like to see them totally removed and replaced with smaller understory trees.

6. Township Committee Comments

Mr. DiMare noted a recent meeting to discuss the sign ordinance. A full report will be given at the next meeting.

Dr. Voyce noted that he would work with Mr. DiMare to set up a meeting with the DPW staff. He added that he would not be in attendance at the 05-08-12 meeting. Another grill fire occurred recently in Mendham.

Mr. Melick noted that the Tewksbury Education Foundation Barn Dance is scheduled for 05-05-12.

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Mr. Van Doren noted the following items.

- The payment to Wayne Lisa for reimbursement for headwall repair on Sawmill Road.
- The finance subcommittee should review the Bartles House lease as it pertains to the issue raised in a letter from one of the residents.
- He is working on the letter to Senator Weinberg with regard to Senate Bills 1451 and 1452 and will have ready for the 05-08-12 meeting.

Mayor Desiderio noted the following items.

- The Arbor Day celebration is scheduled at TES for 04-27-12 at 9:15 AM.
- A new member will need to be appointed to the Scenic Roads and Bridges Commission.
- Discussion followed regarding summer hours for the Police Department. It was the consensus of the Committee to advise the Chief that the Police Secretary would be able to retain her normal hours during the months of June, July and August.

7. Executive Session

At 9:06 PM Dr. Voyce moved adoption of the following Resolution, seconded by Mr. DiMare. The motion was approved. Ayes: Desiderio, DiMare, Melick, Van Doren, Voyce. Nays: None.

**RESOLUTION #52-2012
A RESOLUTION AUTHORIZING AN EXECUTIVE SESSION OF THE TEWKSBURY
TOWNSHIP COMMITTEE**

BE IT RESOLVED, pursuant to N.J.S.A. 10:4-13 and 10:4-12 that the Tewksbury Township Committee hold a closed session to discuss Contract Negotiations and Land.

It is expected that the discussion undertaken in closed session can be made public at the time official action is taken.

Dana Desiderio
Mayor

8. Reconvened

The meeting reconvened at 9:35 PM.

9. Adjournment

There being no further business, the meeting was adjourned at 9:35 PM.

Roberta A. Brassard
Municipal Clerk