

**BOROUGH OF HIGHLANDS  
MAYOR AND COUNCIL  
REGULAR MEETING  
JANUARY 18, 2006**

Mr. Urbanski called the meeting to order at 7:11 P.M.

Mrs. Flannery made the following statement: As per requirement of P.L. 1975, Chapter 231, notice is hereby given that this is a Regular Meeting of the Mayor and Council of the Borough of Highlands and all requirements have been met. Notice has been transmitted to the Courier, the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

**ROLL CALL:**

**Present: Mr. Nolan, Mr. Caizza, Mr. Urbanski**

**Absent: Mrs. Little, Mayor O'Neil**

**Also Present: Nina Light Flannery, Borough Clerk  
Dominick Manco, Esq., Borough Attorney  
Stephen Pfeffer, Chief Financial Officer  
David Gilson, Borough Administrator**

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**Executive Session Resolution:**

Mrs. Flannery read the following Resolution for approval:

Mr. Urbanski offered the following Resolution and moved its adoption:

**RESOLUTION  
EXECUTIVE SESSION**

**BE IT RESOLVED** that the following portion of this meeting dealing with the following generally described matters shall not be open to the public:

- 1. Clam Plan Lease**
- 2. Bank Proposal for Two Rivers**
- 3. Janitorial Services**
- 4. Request for Increase in Recreation Department**

**BE IT FURTHER RESOLVED** that it is anticipated that the matters to be considered in private may be disclosed to the public at a later date when the need for privacy no longer exists; and

**BE IT FURTHER RESOLVED** that no portion of this meeting shall be electronically recorded unless otherwise stated; and

**BE IT FURTHER RESOLVED** that the private consideration is deemed required and is permitted because of the following noted exceptions set forth in the Act:

5. Deals with purchase, lease or acquisition of real property with public funds.
6. Related to setting of bank rates or the investment of public funds and disclosure could Adversely affect the public interest.
9. Related to pending or anticipated litigation or contract negotiations in which the public body is or may be a party.
10. Falls within the attorney-client privilege and confidentiality is required.

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11. Deals with personnel matters of public employees and employee has not requested that the matter be made public.

Seconded by Mr. Caizza and approved on the following roll call vote:

**ROLL CALL:**

**AYES: Mr. Nolan, Mr. Caizza, Mr. Urbanski**

**NAYES: None**

**ABSENT: Mrs. Little, Mayor O'Neil**

**ABSTAIN: None**

The Governing Body then entered into Executive Session.

Mayor O'Neil called the Regular Meeting back to order at 8:27 P.M.

Mayor O'Neil asked all to stand for the Pledge of Allegiance.

**ROLL CALL:**

**Present: Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil**

**Absent: None**

**Also Present: Nina Light Flannery, Borough Clerk  
David Gilson, Borough Administrator  
Stephen Pfeffer, Chief Financial Officer  
Dominick Manco, Esq., Borough Attorney**

Mayor O'Neil welcomed newly elected Councilman, Frank Nolan.

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**Municipal Budget**

Mayor O'Neil stated that the Budget is not ready to move on this evening.

Mayor O'Neil offered a motion to carry this matter to another meeting, seconded by Mrs. Little and all were in favor.

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**Consent Agenda: Resolutions**

Mrs. Flannery read the titles of the following Resolutions for approval:

Mayor O'Neil offered the following Resolution and moved its adoption:

**R-06-04  
RESOLUTION  
APPOINTING ALTERNATE BOROUGH PROSECUTOR**

**WHEREAS**, there exists the need for professional services for the Borough of Highlands; and

**WHEREAS**, Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) requires that the resolution awarding the contract state the supporting reasons and be printed in a newspaper of general circulation not more than ten (10) days after passage of the resolution;

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**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that **Steven C. Rubin, Esq., 1806 Hwy 35, S., Oakhurst, NJ** be appointed Alternate Borough Prosecutor for a term of one (1) year expiring December 31, 2006.

**BE IT FURTHER RESOLVED** that a copy of this resolution be published in the Courier within ten (10) days of its passage.

Seconded by Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Mayor O'Neil offered the following Resolution and moved its adoption:

**R-06-23**

**RESOLUTION – CHANGE ORDER #2 FINAL– DRAINAGE IMPROVEMENTS  
DeFino Contracting Co., Inc.  
DECREASE OF \$30,893.44  
OCEAN STREET AND RECREATION PLACE RECONSTRUCTION**

**WHEREAS**, a contract was awarded and amended for DeFino Contracting Co., Inc. as follows:

R-05-39	January 19, 2005	\$252,597.38
R-05-103	June 1, 2005	\$ 12,750.00
Amended Contract Total		<u>\$265,347.38</u>

**WHEREAS**, change order # 2 Final dated November 28, 2005 prepared by T & M Associates sets forth reasons for said change order ,

**NOW, THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of Highlands that change order #2 Final decreasing the original contract amount by \$30,893.44 is hereby authorized for Drainage Improvements to the Ocean Street and Recreation Place Reconstruction Project. The final contract price being \$234,453.94.

Seconded by Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Mayor O'Neil offered the following Resolution and moved on its adoption:

**R-06-24**

**RESOLUTION AMENDING RESOLUTION R-05-155  
PROFESSIONAL LEGAL SERVICES**

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**WHEREAS**, the Borough of Highlands adopted Resolution R-05-155 at a meeting held September 7, 2005 awarding the above contract for professional legal services to Dominick M. Manco of the firm Schibell and Mennie, LLC, 1806 Highway 35 South, P.O. Box 2237, Ocean, N.J. 07712 for an amount not to exceed \$16,500 plus reimbursable expenses; and

**WHEREAS**, this contract is to be extended through June 30, 2006, for no additional funds; and

**WHEREAS**, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq., requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands of the following:

1. Dominick M. Manco of the firm Schibell and Mennie is hereby retained to provide legal services through June 30, 2006.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by person authorized by law to practice a recognized profession.
3. A copy of this Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

Seconded by Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Mayor O'Neil offered the following Resolution and moved on its adoption:

**R-06-25  
RESOLUTION AUTHORIZING EMERGENCY  
CONTRACTS PURSUANT TO  
N.J.S.A. 40A:11-6  
WATERWITCH LIFT STATION REPAIR**

**WHEREAS**, Reg Robertson from the Borough of Highlands Street Department has certified that an emergency pump replacement is needed at the Waterwitch Lift Station; and

**WHEREAS**, due to the emergency situation the Borough of Highlands is proceeding with the pump replacement for reasons of public safety; and

**WHEREAS**, the emergency pump replacement is authorized under the Local Public Contracts Law 40A:11-6 Emergency Purchase and Contracts; and

WHEREAS, funding for the work will be accomplished through Account Number 3008-3718; and

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WHEREAS, the Borough of Highlands has contacted Pumping Services, Inc., P.O. Box 117, Middlesex, N.J. 08846 for the pump replacement at the Waterwitch Lift Station for a price of \$5,700.93.

NOW, THEREFORE, BE IT RESOLVED the Mayor and Council of the Borough of Highlands, County of Monmouth, State of New Jersey hereby authorize the immediate pump replacement at the Waterwitch Lift Station for the reason set for in this Resolution and that funding will be provided through Account Number 3008-3718.

A certified copy of this Resolution shall be provided by the Office of the Borough Clerk to each of the following:

- A. Purchasing Agent
- B. Comptroller
- C. Vendor

Seconded by Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Mayor O'Neil offered the following Resolution and moved on its adoption:

**R-06-26  
RESOLUTION AUTHORIZING AWARD OF CONTRACT  
TO VENDOR(S) WITH STATE CONTRACTS  
PROTECTIVE CLOTHING**

BE IT RESOLVED by the Borough of Highlands, County of Monmouth, State of New Jersey as follows:

1. In accordance with the requirements of the Local Public Contracts Law N.J.S.A. 40:11-12 et seq., and the regulations promulgated thereunder, the following purchase without competitive bids from vendor(s) with State Contract is hereby approved:

ITEM #1

VENDOR

TOTAL FIRE GROUP  
1 INNOVATION COURT  
DAYTON, OHIO  
C/O TRILEX LTD 45413

STATE CONTRACT #A53065

AMOUNT \$53,617.26

DESCRIPTION

PROTECTIVE CLOTHING

AND EQUIPMENT FOR THE  
FIRE DEPARTMENT

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**WHEREAS**, the Chief Financial Officer of the Borough of Highlands has certified that adequate funds for such contract are available, and are designated to line item appropriation of the official budget no. 8815. A Copy of the said certification is attached hereto and made a part hereof and the funds to be expended herein are assigned to line item no. 5070. A copy of the within resolution and certification shall be certified by the Township Clerk. The Township Attorney is satisfied that the availability of funds has been provided and a copy of the within resolution shall be made a part of the file concerning said resolution and appointment.

A certified copy of this Resolution shall be provided by the Office of the Borough Clerk to each of the following:

- (A) Purchasing Agent
- (B) Comptroller
- (C) Vendor

Seconded by Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil

**NAYES:** None

**ABSENT:** None

**ABSTAIN:** None

Mayor O'Neil offered the following Resolution and moved on its adoption:

**R-06-27**

**RESOLUTION AUTHORIZING AN EXTENSION OF TIME  
FOR PAYMENT OF MUNICIPAL TAXES WITHOUT  
INTEREST TO MARCH 1, 2006**

**WHEREAS**, the Borough of Highlands mailed Municipal tax bills in January, 2006 to all property owners; and

**WHEREAS**, the delay of the mailing of the Municipal tax bills will result in the imposition of interest payments if an extension of time for the payment of the bills is not granted to the residents of the Borough of Highlands.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands, County of Monmouth, State of New Jersey, as follows:

1. That the Mayor and Council hereby authorize the extension of time for payment of the Municipal tax bills to March 1, 2006.
2. In the event that the tax bills are not paid by a resident on March 1, 2006. then interest shall be retroactive to the February 1. 2006 due date.
3. That the Borough Clerk shall forward certified copies of this resolution to the following:
  - A. Beth Gates, Director  
Division of Local Government Services

Department of Community Affairs

B. Tax Collector

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Seconded by Mr. Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES: Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil**

**NAYES: None**

**ABSENT: None**

**ABSTAIN: None**

Mayor O'Neil offered the following Resolution and moved on its adoption:

**R-06-28  
RESOLUTION  
CONTRACT FOR PROFESSIONAL SERVICES  
RE: COMMERSE RISK CONTROL SERVICES A DIVISION OF COMMERCE  
INSURANCE SERVICES, INC. TO COORDINATE ALCOHOL AND DRUG  
TESTING SERVICES; RESOLUTION**

**THIS AGREEMENT** made this 18<sup>th</sup> day of January 2006, by and between the Borough of Highlands a Municipal Corporation of the State of New Jersey, hereinafter referred to as "BOROUGH"

COMMERCE RISK CONTROL SERVICES A DIVISION OF COMMERCE INSURANCE SERVICES, INC. of 1701 Route 70 East, P.O. Box 1360, Cherry Hill, NJ 08034, hereinafter referred to as "CONTRACTOR"

WITNESSETH:

**WHEREAS**, BOROUGH Council has authorized the execution of a Professional Services Contract with COMMERCE RISK CONTROL SERVICES A DIVISION OF COMMERCE INSURANCE SERVICES, INC. 1701 East, PPO Box 1360, Cherry Hill, NJ 08034, pursuant to Resolution No. R-06-28 duly adopted by the Governing Body of January 18, 2006; and

**WHEREAS**, the Contractor is experienced in and capable of providing such services; and

**WHEREAS**, the Municipal Treasurer has certified the availability of funds within Contract; and

**WHEREAS**, the BOROUGH Solicitor of the Borough of Highlands has determined that the within Contract is a valid Contract for Professional Services which may be awarded without competitive bidding, in accordance with the provisions of the Local Public Contract Law of the State of New Jersey; and

**NOW, THEREFORE**, in consideration of the mutual covenants and premises set forth herein, it is agreed as follows:

**1. SCOPE OF SERIVCES:** "BOROUGH" hereby employs and retains the services of "CONTRACTOR", for the term hereinafter specified, to provide such services to "BOROUGH" as specially set forth in certain specifications from "CONTRACTOR", which is attached hereto as Exhibit "A" and which is incorporated herein by reference and made a part hereof.

2. **TERM:** This contract shall be for specific services set forth in Exhibit "A" which shall be performed from January 1, 2006 to December 31, 2006. Time shall be strictly of essence.

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3. **COMPENSATION:** In consideration of performing those services provided in Exhibit "A" attached, "BOROUGH" agrees to pay "CONTRACTOR" the following sums payable in the following manner: See Exhibit "B" attached hereto and made a part thereof.

4. **INDEPENDENT CONTRACTOR STATUS; CONTRACTOR TO PROVIDE INSURANCE:** The services to be provided by "CONTRACTOR" shall be performed as an Independent Contractor. It is understood, agreed and acknowledged that such for any purpose. All payments made by "BOROUGH" to "CONTRACTOR" pursuant to this contract shall be gross payments. No deduction shall be made there from for taxes for payroll deduction. "CONTRACTOR" represents and warrants that it will maintain in full force and effect workers' compensation coverage and disability coverage for all of "CONTRACTORS" employees.

5. **TERMINATION:** "BOROUGH" may terminate this contract for cause at any time, in which event, "CONTRACTOR" shall be entitled to be compensated for all services performed up to the date of termination.

6. **AFFIRMATIVE ACTION REQUIREMENTS:** "CONTRACTOR" acknowledged that this Contract must be carried out in accordance with the Affirmative Action requirements of the State of New Jersey . Accordingly, during the term of this contract and during the performance of all duties under this Contract, "CONTRACTOR" agrees as follows: See Exhibit "C".

7. **AMENDMENTS:** Any amendment to this Contract must be in writing and signed by the parties hereto. Oral amendments shall have no force or effect.

8. **MISCELLANEOUS:**

- (A) This contract shall be constructed in accordance with the laws of the State of New Jersey.
- (B) This Contract shall be binding upon the parties hereto, their heirs, successors, administrators and assigns.
- (C) Paragraph headings are intended solely for the convenience of the parties and shall not be used in constructing the provisions of the paragraph..
- (D) Reference to the masculine gender shall be deemed to include all other genders. Reference to the singular shall be deemed to include the plural.

Seconded by Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Mayor O'Neil offered the following Resolution and moved its adoption:



**R-06-29**  
**RESOLUTION ACCEPTING AUDIT**  
**BOROUGH OF HIGHLANDS**  
**COUNTY OF MONMOUTH**  
**BOROUGH OF HIGHLANDS**  
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**WHEREAS**, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

**WHEREAS**, the Annual Report of Audit for the year ended June 30, 2005 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S. 40A:5-6, and a copy has been received by each member of the governing body; and

**WHEREAS**, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

**WHEREAS**, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, at a minimum, the sections of the annual audit entitled:

General Comments

Recommendations

Auditors' Opinions

and

**WHEREAS**, the members of the governing body have personally reviewed at a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments

Recommendations

Auditors' Opinions

as evidenced by the group affidavit form of the governing body: and

**WHEREAS**, such resolution of certification shall be adopted by the governing body no later than forty-five (45) days after receipt of the annual audit, as per the regulations of the Local Finance Board; and

**R-06-29**

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**WHEREAS**, all members of the governing body have received and have familiarized themselves with at least the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

**WHEREAS**, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 – to wit:

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“R.S. 52:27BB-52 – “A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.”

**NOW, THEREFORE, BE IT RESOLVED** that the governing body of the Borough of Highlands, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Seconded by Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O’Neil  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Mayor O’Neil offered the following resolution and moved its adoption:

**R-06-30  
RESOLUTIONH RESCINDING RESOLUTION R-06-10  
APPOINTING MEMBERS OF THE ZONING BOARD OF ADJUSTMENT**

**WHEREAS**, at the Reorganization Meeting of the Mayor and Council of the Borough of Highlands the Governing Body adopted Resolution R-06-30 Appointing Members of the Zoning Board of Adjustment; and

**WHEREAS**, it is the decision of the Governing Body that the appointments were in error; and

**WHEREAS**, the Governing Body desires to make the appropriate appointments;

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Highlands that Resolution R-06-10 be and hereby is rescinded.

Seconded by Mrs. Little and adopted on the following Roll Call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O’Neil  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**R-06-31  
RESOLUTION APPOINTING MEMBERS OF THE ZONING BOARD OF  
ADJUSTMENT**

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**BE IT RESOLVED** by the Governing Body of the Borough of Highlands that the following appointments be and are hereby confirmed to the Zoning Board of Adjustment:

- |    |                  |  |
|----|------------------|--|
| 1. | Kenneth Braswell | Regular Member for a 4 year term to expire December 31, 2009                 |
| 2. | Jim Fox          | Alternate #2 Member for a 2 year term to expire December 31, 2007            |
| 3. | Tara Ryan        | Regular Member - Replacement for K. James Unexpired Term expiring 12-31-2008 |

Seconded by Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Mayor O'Neil offered the following Resolution and moved for its adoption:

**R-06-32**

**RESOLUTION - APPROVAL OF CORRECTIVE ACTION PLAN FOR SFY 2005**

**WHEREAS**, the Directive by the Division of Local Government Services, Local Finance Notice 92-15 dated August 9, 1992, requires that the Chief Financial Officer must submit a Corrective Action Plan, relative to the findings and recommendation in the annual audit report; and

**WHEREAS**, the Governing Body of the Borough of Highlands has reviewed said Corrective Action Plan for the State Fiscal Year 2005;

**NOW, THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of Highlands that said Corrective Action Plan is hereby approved.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the Chief Financial Officer, the Director of the Division of Local Government Services, and all appropriate Borough Officials.

Seconded by Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Mayor O'Neil offered the following Payment of Bills and moved on its approval for payment:

**RECAP OF PAYMENT OF BILLS  
01/18/06**

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<b>CURRENT:</b>		\$	73,478.01
Payroll	(01/15/06)	\$	103,617.83
Manual Checks		\$	44,119.07
Voided Checks		\$	
<b>SEWER ACCOUNT:</b>		\$	1,367.43
Payroll	(01/15/06)	\$	5,333.41
Manual Checks		\$	49.91
Voided Checks		\$	
<b>CAPITAL/GENERAL</b>		\$	57,743.00
<b>CAPITAL-MANUAL CHECKS</b>		\$	
Voided Checks		\$	15,000.00
<b>TRUST FUND</b>		\$	1,922.75
Payroll	(01/15/06)	\$	2,043.83
Manual Checks		\$	305.60
Voided Checks		\$	
<b>UNEMPLOYMENT ACCT-MANUALS</b>		\$	
<b>DOG FUND</b>		\$	
<b>GRANT FUND</b>		\$	
Payroll	(01/15/06)	\$	949.47
Manual Checks		\$	618.34
Voided Checks		\$	
<b>DEVELOPER'S TRUST</b>		\$	88.00
Manual Checks		\$	
Voided Checks		\$	

**THE COMPLETE PAYMENT OF BILLS IS AVAILABLE IN  
THE CLERK'S OFFICE FOR ANYONE THAT WISHES TO REVIEW THE LIST.**

Seconded by Mrs. Little and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O'Neil  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

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**Ordinance – Introduction, Set P.H. Date for February 15, 2006**

**Ordinance O-06-01**

Mrs. Flannery read the title of the following Ordinance for introduction and setting of a public hearing date:

Mayor O'Neil offered the following ordinance for passage on introduction, that a public hearing date be set for Wednesday, February 15, 2006 and for publication according to law:

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**O-06- 01**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER III OF THE REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS ENTITLED "GENERAL POLICE REGULATIONS-PUBLIC PARKS", ESTABLISHING A NEW SECTION 3- 21 THEREOF ENTITLED, "SEX OFFENDER RESIDENCY LIMITATION"**

**WHEREAS**, the Governing Body of the Borough of Highlands is concerned about the possible threat posed by convicted sex offenders having convenient accessibility to children, or the places where children congregate regularly, and

**WHEREAS**, the risks involved appear to be increased if such convicted offenders have accessibility to children when their own residence is located near places where children congregate, as children can be more readily observed, monitored, approached and communicated with, and

**WHEREAS**, there are presently no State laws which regulate or prohibit such convicted sex offenders from residing in close proximity to or loitering in such places where children regularly congregate, and *NJSA 40:48-1* provides the authority for a municipality to pass such ordinances as appropriate to adequately protect the health and safety of the community, and certainly its children, and

**WHEREAS**, the Mayor and Borough Council have concluded it is appropriate to protect the safety and welfare of its children to prohibit the residence of convicted sex offenders within close proximity of defined locations where children congregate regularly, and loitering of such offenders in the immediate vicinity of such locations.

**NOW THEREFORE BE IT ORDAINED** BY THE GOVERNING BODY OF THE BOROUGH OF HIGHLANDS, that the Revised General Ordinances of the Borough of Highlands be and hereby are amended and supplemented to add a new Section 3-21 under Chapter III, "Revised General Police Regulations," entitled, "Sex Offender Residency Limitation", to read as follows:

Section 3-21.1. Residency Limitation.

No person over the age of 18 who is required to register with the proper authorities pursuant to *NJSA 2C:7-1 et seq*, "Registration and Notification of Release of Certain Offenders", commonly identified as "Megan's Law", and has been classified as either a Tier 1, Tier 2 or Tier 3 Offender, shall be permitted to reside over otherwise live in an area within 1,000 feet of any public or private school, park, playground or daycare center in the Township.

Section 3-21.2. Prior Residency Exclusion.

This ordinance shall not be deemed to apply to any such prohibited person/resident who is both a record title owner and occupant of their residence in a prohibited area as of the date of the adoption of this ordinance. Any other such prohibited person/resident residing within any prohibited area shall have ninety days (90) from the effective date of this ordinance, or upon the termination of any residential lease with a term not longer than one (1) year entered into prior to the adoption of this ordinance, whichever is later, to relocate outside of the prohibited areas established by this ordinance. Failure to so relocate from prohibited areas shall constitute a violation of this ordinance. No such prohibited

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person shall establish residency in a prohibited area after the adoption of this ordinance.

Section 3-21.3. Exclusion Zone – 150 feet.

In addition to the foregoing, an area encompassing 150 feet in all directions from any facilities identified in Section 1 shall be established and defined as an “Exclusion Zone”. NO person subject to the residency limitation specified in Section 3-21.1 shall be permitted to stop, sit, stand or loiter within an “Exclusion Zone” for any period of time exceeding the amount of time reasonably necessary to engage in a legitimate activity within the “Exclusion Zone”, and shall remain within said “Exclusion Zone” for only that period of time required to actually engage in that legitimate activity.

Section 3-21.4. Penalty for Violations

Any violation of this chapter shall be punishable by the penalties provided in Section 3-9 of the Revised General Ordinances of the Borough of Highlands.

Section 3-21.5. Penalty for Violations

The provisions of this ordinance shall be deemed to be severable. Therefore, if any provision, section, subsection, sentence, clause, phrase or portion of this ordinance shall be deemed to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions of this ordinance shall remain in full force and effect.

**BE IT FURTHER ORDAINED THAT** this ordinance shall take effect upon final passage and publication in accordance with law.

Seconded by Mrs. Little and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Little, Mr. Caizza, Mr. Urbanski, Mayor O’Neil

**NAYES:** None

**ABSENT:** None

**ABSTAIN:** None

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**Other Business:**

**Engineer’s Report**

Dale Leubner of T & M Associates stated the following:

Community Center Project – the project is on an aggressive schedule as far as design is concerned. The Architect and our design teams are working towards a March 1<sup>st</sup> plan completion date. We are anticipating a submittal to the county for CDBG review on March 1, 2006. We are looking at a late spring or early summer start of construction.

Fire House Project – the fire house is still on schedule for a September 25, 2006 completion date and is still on budget.

Don Norbut of T & M Associates stated the following:

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Bridge Project – we are following up with the NJDOT to coordinate the reimbursement of the \$10,000 for the utility assistance that our office provided.

Storm Water Program – the NJDEP regulations, we are just about complete with the outfall inspections. Within the next several weeks we will be sending you the final piece of this which is to take a look at the land use ordinance to make sure that the storm water regulations are up to standards with the states regulations.

Tax Map Revisions – we have updated the tax maps and those are now complete.

Amendments to Zoning Ordinance – M. Truscott of our office attended the January 12<sup>th</sup> Planning Board Meeting and the Planning Board will be sending a report to the Governing Body.

Ocean Street Reconstruction & Recreation Place Improvements – Final payment certification and project closeout documentation is currently being prepared and processed.

South Bay Sanitary Pump Station – I have been informed that the work had been completed and there are just punch list items that need to be taken care of. We will make sure that training is provided to the DPW to operate that station.

North Street Box Culvert Replacement – we are still coordinating work between the borough's bulkhead contractor and B&W so that the drainage work can resume.

Grants & Loans – with regard to the Basin 8 Sanitary Sewer Improvements we are working with the borough.

Sewerage Authority – we have been working to try and get the borough reimbursement from the AHHRSA under the I & I Reduction Program.

Mayor O'Neil stated that he spoke with Mr. Leubner and Mr. Urbanski about the Valley Street Pump and they are looking to get that in as soon as possible, but it is going to take a little bit of time, which he further explained.

Chris Francy of 36 Fifth Street wanted to know how the updated tax maps are delivered.

Mr. Leubner – we have the original Mylar maps and they are updated with pen and ink. We then scan them into our computer system thereby providing the borough with a compact disk. There are no electronic drawings of the tax maps.

Chris Francy – I believe that T & M had committed to delivering the tax maps as a GIS layer with various other GIS layers available, what is the status of that? I thought that it was part of the contracts.

Mr. Norbut stated that he would look into that but he does not believe that funding was ever authorized to do so.

Chris Francy – we should think about getting a working GIS System.

Mr. Norbut – the county is going to be taking the lead in converting all the tax maps to a GIS layered system, I will follow up on that.

Carla Cefalo-Braswell – it is available at the County GIS office.

Donald Manrodt – this was discussed during our Master Plan contract.

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Mr. Norbut – that could be correct, most likely the zoning map will be compatible in a GIS format.

**Zoning Board Annual Report**

The Governing Body reviewed the Zoning Board Annual Report and Recommendations dated January 3, 2006.

The Governing Body discussed the recommendations and suggested that the Zoning Board submit draft documents for their recommendations.

**Bulk Garbage**

Mr. Urbanski stated that the new bulk ordinance did not work. We use to have it four times a year but the problem is that people line up the sidewalks with bulk.

Mayor O’Neil – we need to get out of this business which he further explained that he does not feel that the borough should have to pay for the bulk to be removed when someone moves from there homes or tenants change or when you get new furniture.

The Governing Body had a discussion with regard to the bulk garbage pick up and discussed the possibility of a pick up twice a year.

Carla Cefalo-Braswell of the HBP – our concern is having junk all over the streets when patrons and visitors are coming to the town. We need enforcement for those people who leave there bulk out. She wanted to know why we don’t have it four times a year like we used to.

Mr. Urbanski explained the problems that the borough had with four times a year.

Chris Francy of 36 Fifth Street stated the council should target the law with the offenders.

Mrs. Little - I think that we need to set a clear definition and limit the amount.

Bulk Garbage Discussions continued with the Governing Body.

Lori Ann Bodnar questioned the bulk garbage discussions.

Maureen Kraemer of Portland Road – in most towns if you can’t fit something in the garbage cans then you can’t put it out. She also questioned why condos can’t put out carpet but homeowners could.

Lori Ann Bodnar questioned the governing body’s comments that they don’t want to pick up carpets, furniture and bulk then just say that its pick up for appliances.

Mr. Pfeffer explained that bulk pick up is a big expense and the prices are going up.



Art Gallagher of Linden Avenue – with appliances we now have to pay the town a fee to have it picked up, so why not do that with everything else?

Mr. Urbanski stated that its not feasible to have the DPW doing spot bulk pick ups.

Art Gallagher suggested that the pay for pick ups and set aside certain days for the pick ups.

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Lori Ann Bodnar suggested that people be aloud to bring bulk to the recycling center.

Mr. Pfeffer stated that there is a town that mails out coupons to all tax payers and it allows for the residents to come to the recycling yard and dump there bulk. They have to show proof of who they are and present one of the coupons.

Mr. Manrodt explained that years ago the town never had a bulk pick up. You had to pay a private company to pick up your bulk.

Carla Cefalo-Braswell – if we out source the sanitation department would there be a reduction in taxes?

Mayor O’Neil – I would think that there should.

Carla Cefalo-Braswell suggested that the borough look into out sourcing the sanitation department.

Mayor O’Neil stated that we were.

Stephen Pfeffer explained that he could cost out how much the garbage collection cost the borough. What he can’t cost out is how much a person would have to pay to get your garbage picked up by an outside contractor. He does not believe that the tax payer would pay less to out service the garbage. The Borough would have to still collect the recycling and he is not convinced that there is that much of a savings.

Carla Cefalo-Braswell asked why we can’t make it mandatory to have people drop off the recycling to the recycling yard.

Mayor O’Neil – we have to look into it.

**Miller Beach**

Mrs. Little – we might want to do something before spring to take a look at what we put into our 2005 Livable Communities Grant Application. There was a project scope for here and this particular one was for \$104,000. I am looking at sand replenishment which is \$25,000 and site work that is \$12,000, perhaps being done differently and that could bring you down to \$60,000. I am not sure that we are going to be getting this grant money and I would like to do something at Miller Beach.

Mr. Urbanski – I have spoken with the DPW men and they want to put the gazebo top back up. I have spoken with other people who would volunteer their time if the borough provided the material.

Mrs. Little – that would be a good start.

The Governing Body all seemed to want to do improvements to Miller Beach such as redoing the gazebo, putting in some benches, picnic table and some garbage cans.

Mrs. Little asked the Borough Clerk to recopy this material and distribute into the Governing Body' mail boxes.

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**Approval of Minutes:**

Mayor O'Neil offered the approval of the November 2, 2005 and December 7, 2005 Minutes, seconded by Mr. Urbanski and all were in favor.

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**Public Portion:**

Chris Francy of 36 Fifth Street – the Clam Plant has been in the news in a not so good way but last august the lease was up and I want to know what the status is of that.

Mr. Urbanski explained that they had a ten year option on the end of the first ten years, which they have exercised there right to the new fair market value which is 3,833.00 per month.

Mayor O'Neil – the deal was done and then we made a move to default them because it wasn't being paid and then they paid.

Chris Francy questioned the status of the renewal of the Comcast contract.

Mayor O'Neil stated that there haven't been any further discussions on that matter.

Chris Francy explained that there have been discussions about Atlantic Highlands doing the Comcast and it would be nice if both towns came together and its citizens to put pressure on Comcast to get something out of the contract.

Mayor O'Neil – we have had discussions with Mr. Clifton about having the municipal hook ups free of charge and have link ups for the schools.

Chris Francy explained how we need broad band in the town which he further explained. He suggested that we set up a committee to work on this contract and he volunteered himself to coordinate something and report back to the borough.

Mayor O'Neil stated that he did not have a problem with that.

Mr. Nolan stated that he would volunteer to be on the committee with Mr. Francy.

The Governing Body agreed to have Mr. Francy chair the cable committee.

Lori Dibble of Paradise Park – this is a good time to set this committee.

Unidentified Woman questioned if the ownership of Portland Road between Wyndmoor and County Park has been resolved yet. She wanted to know if the Council has done anything on this matter.

Mayor O'Neil – the title search is still being done by Middletown and there is nothing we can do with regard to that.

Joseph Thorn of 102 Valley Avenue stated that he lives adjacent to a vacant lot (Block 35 Lot 12) and recently he sent a letter to the town with regard to the ownership of the vacant lot.

Mr. Manco stated that he received a letter from Mr. Thorne regarding a lien that we assigned. I have been told that there is a letter that indicates that there is a deed that is sixty years old which shows that the borough owns the property.

Joseph Thorn then submitted a letter from his attorney to Mr. Manco.

Mr. Manco – we will have to research the title to this property and if we own the property then the tax sale lien should not have existed and we would have to refund the money for the lien.

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Mr. Thorne wanted to know how to have this matter placed on the agenda to have it resolved.

Mr. Manco explained that once he reviews the information that is being submitted by Mr. Thorne then he can make a determination to place this matter on an agenda.

Carol Bucco of 330 Shore Drive questioned building that is occurring up on Grand Tour and she questioned the location of the ingress and egress for that property.

Mayor O'Neil – the last time that we discussed that they wanted us to condemn the end of Oak Land Street to provide them access to that property which was not acceptable.

Mrs. Flannery stated that the portion of the road was not vacated they just received permission to improve the right-of-way.

Art Gallagher of 158 Linden Avenue stated that he is a member of the Environmental Commission and then explained the purpose of the committee and stated that one of the seven members is required to be on the Planning Board and right now there are three commissioners on the board and we need four members to serve on the board. He stated that a budget would be needed for the committee which would just be for notification of meetings and asked if anyone was interested in serving on the boards should submit a letter to the Council.

Unidentified Woman stated that it seems that there is no one enforcing our ordinances and our main street is covered in garbage and we need someone to be responsible to enforce our laws.

Mayor O'Neil – we are trying to hire a full-time Code Enforcement Officer.

Carla Cefalo-Braswell of the HBP stated that the liter is a big problem and it needs to be addressed.

Art Gallagher wanted to know if we appointed a Clean Community Coordinator and questioned the duties of that position.

Mayor O'Neil explained that that is for grants.

Carla Cefalo-Braswell stated that there is more that can be done with the Clean Community Committee which she further explained.

Marsha Shaya of Portland Road and President of the Garden Club – last year we discussed the electrical system at Ederly Park and she wanted to know the status of that project.

Mayor O'Neil – we are working on estimates for that project.

Marsha Shaya – what about Cornwall Square, the water?

Mayor O’Neil – we are going to take care of that.

Marsha Shaya – last October Mr. Urbanski asked me if I would help out with the project of redoing the hillside at Ederly.

Mr. Urbanski – we were going to try and come up with something that the DPW could do with that slope at Ederly.

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Mayor O’Neil – I have asked T & M to look at Miller Street hill to see if we can have the sidewalks and curbs replaced and have the upper plants removed and have it terraced and perhaps the Garden Club could come up with some plantings.

Marsha Shaya – how will I be contacted to start any of these projects.

Mayor O’Neil – once I have the demo work done then I will contact you.

Mrs. Flannery announced that minutes and resolutions are now available at the highlandsnj.com.

Mayor O’Neil offered a motion to adjourn the meeting, seconded by Mr. Caizza and all were in favor.

The Meeting adjourned at 10:00 P.M.

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**CAROLYN CUMMINS, DEPUTY CLERK**