

**MAYOR AND COUNCIL
REGULAR MEETING
JANUARY 17, 2007**

Mayor O'Neil called the meeting to order at 7:09 P.M.

Mrs. Flannery read 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 Asbury Park Press, the Courier and the Two River Times. Notice has been posted on the public bulletin board.

ROLL CALL:

Present: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil

Absent: None

Late Arrival: None

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

EXECUTIVE SESSION RESOLUTION:

Mrs. Flannery read the following Resolution for approval:

Mayor O'Neil 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. Personnel: Retirement - Tax Department

2.

Settlement Resolution

Highlands First Aid Squad

Administrator - Advertising

Public Works Superintendent - Advertising

**3. Potential Litigation: Highlands-Sea Bright Draw Bridge
Special Counsel**

**Highlands on the Bay/Jack Pires
Residents will be at regular portion to see
if Engineer will be authorized to pull the bond.**

**William Sabanski - vacation of area on
South Peak Street problem. Mrs. Bauman
Requests clarification.**

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:

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

Offered by Mayor O'Neil.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

The Governing Body then entered into Executive Session.

Mayor O'Neil called the Regular Meeting back to order at 8:26 P.M.

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

ROLL CALL:

Present: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
Absent: None
Also Present: Nina Light Flannery, Borough Clerk
Dominick Manco, Esq., Borough Attorney
Stephen Pfeffer, Chief Financial Officer

CONSENT AGENDA - RESOLUTIONS:

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

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

R-07-23
RESOLUTION – CHANGE ORDER #3
M & R MECHANICAL CONTRACTORS, INC.
INCREASE OF \$19,187.06
CONSTRUCTION OF A NEW FIREHOUSE

WHEREAS, a contract was awarded for M & R Mechanical Contractors, Inc as follows:

| | | |
|----------|--------------------|----------------|
| R-04-179 | September 15, 2004 | \$1,665,000.00 |
| R-06-34 | February 1, 2006 | \$ 60,306.16 |
| R-06-140 | August 16, 2006 | \$ 8,039.41 |

WHEREAS, change order # 3 dated revised January 2, 2007 prepared by George Cooper Rudolph, Professional Architectures, sets forth reasons for said change order,

Certification of Funds

I hereby certify that funds are available from Bond Ordinance 0-98-11.

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Stephen Pfeffer, CFO

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Highlands that change order #3 increasing the original contract amount by \$19,187.06 is hereby authorized for Construction of a New Firehouse. The contract is hereby amended to \$1,752,532.63.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, 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-07-24
RESOLUTION APPROVING TERMS OF SEPARATION AGREEMENT TO BE
PAID TO DAVID GILSON**

WHEREAS, the Governing Body adopted R-06-162 on October 4, 2006 terminating David Gilson, Borough Administrator; and

WHEREAS, the Governing Body and David Gilson have reached an agreement as to all outstanding issues regarding David Gilson's employment with the Borough and the termination of that employment including the final payment of accrued compensation per the attached Separation Agreement and Exhibit A, General Release and Waiver (the separation agreement); and

WHEREAS, in accordance with N.J.S.A. 40A:9-165, the governing body must authorize all benefits, and;

WHEREAS, before any payment is made, the Chief Financial Officer must certify that sufficient documentation exists as to the amount of the accumulated absence, and that funds are available to pay the amount due.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Highlands has reviewed the separation agreement between the Borough and David Gilson and agree to the following:

David Gilson will be paid for two hundred ninety six (296) hours of vacation time and four hundred seventy two (472) hours of sick time for a total of seven hundred sixty eight (768) hours. The amount as calculated by the Chief Financial Officer is \$34,951.68.

Certification of Funds: Trust Fund – Reserve for Accumulated Leave

Stephen Pfeffer
Chief Financial Officer

All other terms as stipulated in the separation agreement between the Borough of Highlands and David Gilson.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to execute the separation agreement between the Borough of Highlands and

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David Gilson. That David Gilson is to be paid for accumulated compensation of \$36,408 within thirty days (30) of the execution of the separation agreement by both parties.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mayor O'Neil

NAYES: Mr. Caizza, Mr. Urbanski

ABSENT: None

ABSTAIN: None

Mrs. Flannery stated that the final amount has been adjusted, the resolution is only for sick and vacation time, and the figures will be adjusted accordingly by the CFO.

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

**R-07-25
RESOLUTION - COMPESATED ABSENCE-RESIGNATION**

WHEREAS, Melody Hartsgrove has been employed by the Borough of Highlands as Code Enforcement/Zoning Secretary since August 22, 2002; and

WHEREAS, on November 3, 2006 Melody Hartsgrove resigned; and

WHERAS, Melody Hartsgrove is entitled to compensated absence benefits for her accrued vacation time of 106 hours equating to \$1,374.82; and

WHEREAS, in accordance with N.J.S.A. 40A:9-165, the governing body must authorize all benefits, and;

WHEREAS, before any payment is made, the Chief Financial Officer must certify that sufficient documentation exists as to the amount of the accumulated absence, and that funds are available to pay the amount due.

NOW, THEREFORE, BE IT RESOLVED the Governing Body of the Borough of Highlands that subject to the certification of funds availability by the Chief Financial Officer, that Melody Hartsgrove receive the aforementioned compensated absence benefits.

Certification of Funds: Trust Fund – Reserve for Accumulated Leave

Stephen Pfeffer
Chief Financial Officer

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, 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:

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R-07-26

**RESOLUTION – RETROACTIVE SALARY INCREASES FOR PART TIME,
SUBSTITUTE AND SFY 2006 CASE PROGRAM POSITIONS IN THE
RECREATION DEPARTMENT**

WHEREAS, the Director of Recreation, Timothy Hill, has requested that certain part time, substitute and SFY 2006 CASE Program employees be granted retroactive salary increases per his memos dated January 4, 2006 and December 19, 2006 ; and

WHEREAS, Governing Body has reviewed said memo’s and have determined that the requested salary increases are merited based on the criteria outlined by Mr. Hill; and

WHEREAS, the Chief Financial Officer has determined that the salary information provided by Mr. Hill is accurate; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the salary increase listed on the next page are hereby approved and that all paperwork submitted by Mr. Hill shall be made a part of this resolution:

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O’Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Recreation Employee Increases

R-07-26

**Part Time Recreation Department
Employees**

| Name | SFY | Hours Worked | Hourly Rate Adjustment | Total | Rate |
|---------------------|--------------|--------------|------------------------|-----------------|---------|
| Val Chaparro | 2003 | | | | \$6.50 |
| | 2004 | 51 | \$1.25 | \$63.75 | \$7.75 |
| | 2005 | 32.5 | \$2.50 | \$81.25 | \$9.00 |
| | 2006 | 25 | \$4.50 | \$112.50 | \$11.00 |
| | 2007 to date | 0 | | | \$11.00 |
| | | | | \$257.50 | |
| Chris Vargas | 2004 | | | | \$9.00 |
| | 2005 | 120 | \$1.00 | \$120.00 | \$10.00 |
| | 2006 | 97 | \$2.00 | \$194.00 | \$11.00 |
| | 2007 to date | 12 | \$2.00 | \$24.00 | \$11.00 |
| | | | | \$338.00 | |

**SFY 2006 DFD (CASE PROGRAM)
CONTRACT**

| Year | Hours | Hourly Rate Increase | Total |
|------|-------|----------------------|-------|
|------|-------|----------------------|-------|

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| | | | | | |
|------------------------|----------|-------|---------|-------------------|----------------------------------|
| Amanda Basisch | SFY 2006 | 708.5 | \$0.75 | \$531.38 | |
| Val Chaparro | SFY 2006 | 548.5 | \$0.50 | \$274.25 | |
| Kim Karaman | SFY 2006 | 515 | \$1.00 | \$515.00 | |
| Jennifer Glancy | SFY 2006 | 462 | \$0.50 | \$231.00 | |
| Tim Hill | SFY 2006 | 300 | \$1.00 | \$300.00 | |
| Jennifer Rounds | SFY 2006 | 60 | \$15.00 | \$900.00 | Received No Compensati Period |
| | | | | <u>\$2,751.63</u> | |

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

**R-07-27
RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
T & M ASSOCIATES**

WHEREAS, the Borough of Highlands has a need for professional engineering services as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, such professional engineering services can only be provided by licensed professionals and the firm of T & M Associates, Eleven Tindall Road, Middletown, N.J. 07748-2792 is so recognized; and

WHEREAS, the Chief Financial Officer has determined and certified in writing that the value of the contract will exceed \$17,500; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$70,000 plus reimbursable expenses for Professional Engineering Services provided to the Borough of Highlands for the period January 1, 2007 through June 30, 2007; and

WHEREAS, T&M Associates has completed and submitted a Business Entity Disclosure Certification which certifies that T&M Associates has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year and that the contract will prohibit T&M Associates from making any reportable contributions through the term of the contract, and

WHEREAS, T & M Associates has completed and submitted a Political Contribution Disclosure form in accordance with P.L. 2005, c 271; and

WHEREAS, certification of availability of funds is hereby provided by the Chief Financial Officer of the Borough of Highlands as follows :

I hereby certify funds are available as follows:

Current Fund: General Engineering and Special Emergency Ordinance 0-04-15
Sewer Utility Fund: Other Expenses

Stephen Pfeffer, Chief Financial Officer

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 Borough Council of the Borough of Highlands as follows:

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1. T & M Associates are hereby retained to provide professional engineering services as described above for an amount not to exceed \$70,000 plus reimbursable expenses.
2. The 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 persons authorized by law to practice a recognized profession.
3. A copy of the 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 Mr. Nolan and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, 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-07-28
RESOLUTION AUTHORIZING
REFUND OF STREET OPENING DEPOSITS**

WHEREAS, the Sewer Collector of the Borough of Highlands has reviewed the rolls and determined that certain monies are to be refunded by the Borough of Highlands to the individuals listed at the end of the Resolution; and

WHEREAS, these certain individuals posted a \$500.00 deposit with the Borough of Highlands to obtain a Street Opening Permit and the streets have been inspected and approved by William Little on January 9, 2007.

NOW, THEREFORE, BE IT RESOLVED by the Mayor & Council of the Borough of Highlands, in the County of Monmouth, State of New Jersey, that the Chief Financial Officer is hereby authorized to immediately refund the following individual \$500.00 for a Street Opening Deposit:

| | |
|--------------------------------|-------------------|
| Street Opening Permit #2004-27 | 30 Jackson Street |
| William Weber | \$500.00 |
| 30 Jackson Street | Block 48 Lot 7 |
| Highlands, NJ 07732 | |

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYS: None
ABSENT: None
ABSTAIN: None

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

**R-07-29
RESOLUTION AUTHORIZING
REFUND OF BUILDING PERMIT MONIES**

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WHEREAS, the **BUILDING DEPARTMENT** of the Borough of Highlands has reviewed the rolls and determined that certain monies are to be refunded by the Borough of Highlands to the individuals listed at the end of the Resolution; and

WHEREAS, these certain individuals paid \$165.00 for building Permit #06-116 to the Borough of Highlands and the homeowner decided not to proceed with work.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the borough of Highlands, in the County of Monmouth, State of New Jersey, that the Chief Financial Officer is hereby authorized to immediately refund #165.00 for the cancellation of the permit.

PERMIT #06-116
125 Marina Bay Court
Highlands, NJ 07732
Block 72 Lot 9.21

Monies to be refunded to the contractor: Municipal Consulting Group, 351 Superior Road, Egg Harbor Township, NJ 08234

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, 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-07-30
RESOLUTION
APPOINTING JUVENILE OFFICER**

BE IT RESOLVED by the Governing Body of the Borough of Highlands that **Robert Burton** is hereby appointed Juvenile Officer for the one (1) year term to expire December 31, 2007.

BE IT FURTHER RESOLVED that compensation for said position shall be as set forth in the Municipal Salary Ordinance.

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

ROLL CALL:

AYES: Mr. Nolan, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYS: None
ABSENT: None
ABSTAIN: Miss Thomas

Mr. Manco - noted for the record that Miss Thomas not only abstained, but did not participate in any of the discussions.

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

**R-07-31
RESOLUTION RESCINDING RESOLUTION R-05-193
DIVERSION OF PROPERTY**

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WHEREAS, on December 7, 2005, the mayor and Council of the Borough of Highlands adopted resolution **R-05-193 RESOLUTION SUPPORTING THE STATE HOUSE COMMISSION APPLICATION TO NJDEP GREEN ACRES PROGRAM FOR THE DIVERSION OF A SEGMENT OF SOUTH BAY AVENUE PARK**; and

WHEREAS, recent information from citizen groups and local officials have brought information to the table that is contradictory of the information given to the Governing Body of the Borough of Highlands when they adopted the aforesaid resolution; and

WHEREAS, the Governing Body feels that it is in the best interest of the residents and businessmen of the Borough of Highlands that all information be carefully considered;

WHEREAS, the Governing Body of the Borough of Highlands has made such consideration and made its determination; and

WHEREAS, on December 6, 2006, the Governing Body of the Borough of Highlands adopted Resolution **R-06-186 RESOLUTION BOROUGH OF HIGHLANDS WITHDRAWING SUPPORT FOR THE DESTRUCTION OF THE HIGHLANDS TO SEA BRIGHT DRAW BRIDGE AND OPPOSING THE PROPOSED CONSTRUCTION OF THE FIXED SPAN BRIDGE**;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that it does hereby withdraw their support for the **STATE HOUSE COMMISSION APPLICATION TO NJDEP GREEN ACRES PROGRAM FOR THE DIVERSION OF A SEGMENT OF SOUTH BAY AVENUE PARK** Resolution R-06-186.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, 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
01/17/07**

| | | | |
|------------------------------|------------|-----------|------------------|
| CURRENT: | | \$ | 699,835.76 |
| Payroll | (01/15/07) | \$ | 116,629.10 |
| Manual Checks | | \$ | 26,913.67 |
| Voided Checks | | \$ | |
| SEWER ACCOUNT: | | \$ | 45,859.75 |
| Payroll | (01/15/07) | \$ | 5,909.94 |
| Manual Checks | | \$ | 8.01 |
| Voided Checks | | \$ | |
| CAPITAL/GENERAL | | \$ | 40,077.08 |
| CAPITAL-MANUAL CHECKS | | \$ | |
| WATER/CAPITAL | | \$ | 11,141.00 |

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| | | |
|----------------------------------|-----------|-----------|
| TRUST FUND | \$ | 3,171.75 |
| Payroll (01/15/07) | \$ | 1,374.82 |
| Manual Checks | \$ | |
| Voided Checks | \$ | 58.50 |
| UNEMPLOYMENT ACCT-MANUALS | \$ | |
| DOG FUND | \$ | 10.80 |
| GRANT FUND | \$ | 10,403.27 |
| Payroll (01/15/07) | \$ | 2,962.13 |
| Manual Checks | \$ | |
| Voided Checks | \$ | |
| DEVELOPER'S TRUST | \$ | 1,249.50 |
| 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 Mr. Nolan and approved for payment on the following roll call vote:

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSTAIN: Miss Thomas abstained on any payment to In the Garden
ABSENT: None

OTHER RESOLUTIONS:

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

**R-07-15
RESOLUTION APPOINTING
FINANCE COMMITTEE MEMBER**

BE RESOLVED by the Governing Body of the Borough of Highlands that **JOHN URBANSKI** be and hereby is appointed Finance Committee Member.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Mrs. Flannery stated that R-07-32 will be made in the form of a motion instead of a resolution to appoint a special attorney.

Mr. Manco stated that this would be to cooperate with the Borough of Sea Bright and to participate in financing a special attorney to engage in fact finding pertaining to the bridge.

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Offered by Miss Thomas.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, 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-07-33
RESOLUTION AUTHORIZING CLOSE OUT OF EMERGENCY VALLEY
STREET SEWER PROJECT**

WHEREAS, by Resolution R-06-156 adopted on September 20, 2006 the Borough of Highlands authorized D & D Utility Contractors to conduct an emergency sewer repair at Valley Street,; and

WHEREAS, final invoices were submitted to the Borough for Review by the Borough Engineer and Attorney, and the contractor agreed to accept the gross sum of \$136,586.84 in full payment for all services rendered, and materials supplied in connection with the aforesaid project; waiving all other claims for payment not expressly included therein; and

WHEREAS, the sum of \$90,000.00 has been paid previously and there remains \$46,586.84 of that gross sum to be paid not later than Friday, January 19, 2007;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Highlands does hereby authorize payment to **D & D Utility Contractors** of the gross sum of \$136,500 in full payment for all services rendered, and materials supplied in connection with the aforesaid project; waiving all other claims for payment not expressly included therein.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Urbanski, Mayor O'Neil
NAYES: Mr. Caizza
ABSENT: None
ABSTAIN: None

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

**R-07-34
RESOLUTION AUTHORIZING AN EXTENSION OF TIME
FOR PAYMENT OF MUNICIPAL TAXES WITHOUT
INTEREST TO MARCH 1, 2007**

WHEREAS, the Borough of Highlands mailed Municipal tax bills in January, 2007 to all property owners; and

WHEREAS, the delay of the mailing of the Municipal tax bills, due to late budget approval, will result in the imposition of interest payments if a further extension of time for the payment of the bills is not granted to the residents of the Borough of Highlands.

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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, 2007.
2. In the event that the tax bills are not paid by a resident on March 1, 2007, then interest shall be retroactive to the February 1, 2007 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

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

R-07-32

Mrs. Flannery stated that there was a motion to carry the resolution for the transfer of a liquor license on the agenda this evening, but that there has been some discussion.

Mr. Manco stated that a hearing began on this particular transfer last month and it was carried to tonight's date without any further need for advertisement. He stated that Mr. Meehan was in attendance on behalf of the applicant. He also stated that there was time sensitivity and asked Mr. Meehan if he would like to be heard.

Mr. Meehan stated that the application for the transfer was filed in June. He stated that at that meeting, a letter came in from John Wopat on behalf of a client who was a former landlord at the property asserting that his client was interested in potentially purchasing the license. Copies of the pleadings were provided by Ms. Halleran who represents the present owner of the license, former tenant, showing that the case in Freehold is a landlord/tenant case where the former tenant, who owns the liquor license, is seeking the return of the security deposit and damages for equipment that was sold by the former landlord. The landlord is saying that there is damage to the property. Mr. Meehan stated that there is nothing in the litigation, the complaint and the counter-claim that relates to the liquor license.

Mr. Meehan went on to say that last month, when it was carried, it was to find out what the status of the litigation was. At that point, Mr. Meehan was advised that it had a trial date of the first week of February. He stated that today a letter came in from Mr. Wopat asking for the February date to be adjourned and for a March date to be consented to due to the fact that his client, who is a counter-claimant, lives in Texas and has family obligations there.

Mr. Meehan stated that although it may be adjourned until March, it may not be heard in March and could continue to April or longer. He stated that his position, on behalf of the applicant, is that waiting for the matter to be resolved for over seven months now is a long time, and at this point in time it should be decided by the Council. His client has been cleared by the police, he has been cleared by the ABC. He stated that his client has

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experience, pointing out that his client and mother ran the Nip N Tuck in Long Branch for approximately 30 years.

Mr. Meehan submits that Mr. Wopat, who did not show at the last meeting, and did not send a representative for this meeting, is looking to use correspondence to delay the transfer of the liquor license to get some leverage with the former tenant in the landlord/tenant litigation. Mr. Meehan feels that that is improper and unfair to his client, Mr. Tomaini. He submits that due process mandates that the Council take a vote on this so his client knows where he stands.

Mr. Manco asked Mr. Meehan if, to his knowledge, there was another court action, or any action pending to restrain this Council from acting on this request.

Mr. Meehan stated that there has been no motion filed with the court asking to restrain the transfer, and there has been no separate action filed by anyone. He stated that the first letter sent by Mr. Wopat to the Council was in August of 2005 and another letter in December. He submits that Mr. Wopat has been aware since August when he wrote this council. Mr. Meehan went on to say that the original publication was back in June and republished in November. There has been plenty of notice and plenty of opportunity for Mr. Wopat's client to take appropriate action with the courts if he felt he was entitled for that relief. He feels that what Mr. Wopat is doing, is sending letters in here and hoping that he can get this council not to act and use that as leverage as far as his landlord/tenant claim is concerned.

Mayor O'Neil asked if this license was currently in use.

Mr. Manco stated that this is a pocket license and that it is not in use at this time.

Mayor O'Neil was under the impression that this license was supposed to revert back to the land owner. He stated that it was sold to an individual to use at the Clam Hut and that when he left the Clam Hut he was supposed to sell it back.

Mr. Meehan stated that what Mr. Wopat sent was a portion of a document, one of many documents, that said that if LB, LLC, which owns the license, was going to sell it, that his client had right of first refusal. Mr. Meehan stated that the right of first refusal was never exercised, and that Mr. Wopat's client has known since June that there was another purchaser.

Mr. Meehan also stated that the litigation has been on-going for two years and there is nothing in the papers that makes a claim that Mr. Wopat's client had a right to purchase this license. He cited a court doctrine called the Entire Controversy Doctrine, which states that when you are in litigation, you are required to bring all the claims involving that particular party in the same case. He stated that even after publication of the transfer, Mr. Wopat's client never filed a motion asking to amend his counter-claim, never filed a motion asking the court to restrain it, and no one filed an action in the Chancery Division asking to restrain the transfer. Mr. Meehan stated that there is nothing in the courts that would restrain the transfer of the license.

Mr. Nolan asked Chief Blewett if everything on this liquor license passed, such as background, fingerprints -

Chief Blewett stated that he would have to check.

Mr. Meehan stated that he has a report from ABC approving it, and the tax certificate that's been filed, everything needed which were completed many months ago.

Mr. Manco asked, as far as the status of the contract to buy this license, is there a time pressure at this point?

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Mr. Meehan stated that he has given notice to the seller that if they are not able to resolve this tonight, he is prepared to serve a Time of the Essence Notice.

Mayor O'Neil summed up stating that the current owner sold the license to the current buyer, and the Mayor and Council are being asked to okay that transfer from one to the other.

Mr. Manco stated that there is a contract of sale subject to the approval of the Council.

Mr. Manco explained the process of a liquor license transfer to Miss Thomas. Miss Thomas expressed her desire to abstain from the vote.

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

**R-07-32
RESOLUTION AUTHORIZING PERSON-TO-PERSON
TRANSFER OF LIQUOR LICENSE 1317-33-006-003 FROM LB, LLC
TO JOHN J. TOMAINI**

WHEREAS, an application has been filed for a Person-to-Person transfer of Liquor License 1317-33-006-003, hereto issued to LB, LLC at no location at this time; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term; and

WHEREAS, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated hereunder, as well as pertinent local ordinances and conditions consistent with Title 33;

WHEREAS, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with license business;

NOW, THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Highlands does hereby approve, effective January 17, 2007, the Person-to-Person transfer of the aforesaid Liquor License #1317-33-006-003 to John J. Tomaini, at no location at this time, Highlands, NJ.; and

BE IT FURTHER RESOLVED that the Borough Clerk is hereby directed to endorse the license certificate to the new ownership.

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

ROLL CALL:

AYES: Mr. Nolan, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: Miss Thomas

OTHER BUSINESS:

Engineer's Report

Robert W. Bucco, Jr., P.E. of T & M Associates stated the following:

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1. **Community Center Improvements** - This project is substantially complete. There are a few clean-up items but the contractor has stated that it should all be completed by February 1, 2007.
2. **Community Center Playground/Sports Courts Improvements** - The Phase I-Environmental Site Assessment has been submitted to the Borough. The design plans and specifications have been completed. Once authorization has been received from the Borough, the bid will be advertised.
3. **Fire House** - The bonding company has been notified of the contractor's lack of progress. The curbs were poured today and the sidewalks will be poured tomorrow. The ceiling tiles are ready to be installed, touch up painting is done on the interior and the floor tile will go in next week.

Mayor O'Neil asked if the leak in the roof has been resolved.

Mr. Caizza stated that the moisture was in the concrete and that the painters had tested the walls for moisture approximately three times before moving forward.

Mayor O'Neil asked if the heat was on in the building.

Mr. Caizza stated that there is heat in the firehouse and that the power is on. The truck bay is completed, the tiles should be done by this weekend, early next week the floor tile in the kitchen, offices and hallway will be installed and the epoxy floor in the apparatus room should be completed by next week. He stated that the only thing that may hold things up is blacktop and the landscaping. He expects the doors and the windows to be in within the next 10 days.

Mr. Bucco stated that with regard to the upcoming weather conditions, it will be difficult to do the blacktop.

4. **NJDEP Stormwater Management Regulations** - there are a few clean-up items that need to be addressed before the reimbursement from the State.
5. **South Bay Avenue Pumpstation** - waiting for a price from the electrician.
6. **Valley Street Emergency Sewer Repair** - final payment to the contractor was made tonight. Awaiting estimate for slope stabilization.
7. **Sanitary Sewer Repair at the Bay Avenue and Jackson Street Intersection** - completed.

Capital Improvement Projects

1. **Valley Street Pumpstation Rehabilitation Project** - all paperwork is in order and the electrician is ready for next week.
2. **2006 Road Program** - awarded to A. Montone Construction and is expected to begin in the spring. The grant from the State is expected to be approximately \$67,000 with regard to this project.
3. **Basin Eight Sanitary Sewer Rehabilitation Project** - The plans and specs should be completed by next week.
4. **NJDOT Application** - The Borough has been awarded \$148,000 from the NJDOT for the reconstruction of Washington Avenue. It is recommended that the Governing Body begin planning road rehabilitation for 2007.

Mayor O'Neil asked with regard to the two sewer repairs that were made, Valley Street and Jackson, will there be a drop off of infiltration.

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Mr. Bucco said yes and as the system tightens, it will improve.

With regard to the firehouse and the paving, Mayor O'Neil asked when can we figure out the liquidated damages?

Mr. Bucco stated that it is his recommendation that the blacktop work be postponed and not done during the cold weather months. It is then that it can be discussed as to the liquidated damages.

Mr. Pfeffer wanted to know with regard to the utilities, what the agreement is for payment of these bills.

Mr. Bucco believes that it is the contractor's responsibility for payment of all costs during construction and that once the Borough takes over the building, it is then the Borough's responsibility. Mr. Bucco stated that he would look at the contract to confirm that.

Mr. Pfeffer asked weather the Borough could pay the bills, since the utilities are in the Borough's name, and take a credit on the contract for reimbursement.

Mr. Bucco stated that that is an option and can be discussed after review of the contract. He stated that the Borough should could continue to pay the utilities to assure that they are paid on time and at the end of the contract, finalize reimbursement.

Miss Thomas had a question with regard to the Sports Courts and whether or not the council could take action tonight to move for bids.

Mr. Bucco said that he just needs approval to advertise to receive bids and put it in motion.

Miss Thomas offered a motion to authorize the engineer to advertise for bids.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

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

**R-07-35
RESOLUTION AUTHORIZING AWARD OF CONTRACT
FOR:
MACK GARBAGE TRUCK**

WHEREAS, bids were received on January 17, 2007; and

WHEREAS, one (1) bid was picked up by a vendor, and one (1)

Responsive Bid was received as follows:

| <u>VENDOR</u> | <u>AMOUNT</u> |
|--|---------------|
| 1. McDEVITT MACK SALES 939A EAST STREET TEWKSBURY, MA. 01876 | \$ 172,700.00 |

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Bids were advertised as per N.J. State Statutes and affidavit of publication is on file in the Office of the Borough Clerk.

McDEVITT MACK SALES, 939A EAST STREET, TEWKSBURY, MA. 01876. shall Furnish & Deliver the following as per Bid Proposal & Specifications & Covenants thereof dated January 17, 2007 said bidder being the Lowest Responsible Bidder.

| <u>DESCRIPTION</u> | <u>VENDOR</u> |
|---|---|
| MACK GARBAGE TRUCK FOR THE DEPARTMENT OF PUBLIC WORKS | McDEVITT MACK SALES 939A EAST STREET TEWKSBURY, MA. 01876 |

WHEREAS, bids have been reviewed by the Purchasing Agent and it is his recommendation that the contract be awarded to McDEVITT MACK SALES, 939A EAST STREET, TEWKSBURY, MA. 01876. in the amount of: \$ 172,700.00

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. It hereby awards the contract for "Garbage Truck" to McDevitt Mack Sales, 939A East Street, Tewksbury, MA. 01876. at a cost of: \$ 172,700.00

BE IT FURTHER RESOLVED, this contract is awarded pursuant to a Fair and Open Process in accordance with N.J.S.A. 19:44A-20-5 et seq.

WHEREAS, the Chief Finance 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 Ordinance no. 98-10. A copy of the within resolution and certification shall be certified by the Borough Clerk. The Township Attorney is satisfied that the certification of availability of funds has been provided and a copy of the within resolution shall be made a part of the file concerning said resolutions and appointment.

2. 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) Chief Financial Officer
- C) All of the above bidders

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Mr. Bucco stated that with regard to the Highlands on the Bay Performance Bond, an extensive punch list was provided to the Borough on November 10th, which was then sent to Mr. Myers on December 22nd, asking for a written respond by December 29th as to what his intentions are in resolving the deficiencies. To date there has been no response. Mr. Bucco stated that it is his recommendation that if the Highlands Port Holdings are not going to address these issues, that the Council authorize the Borough Attorney to notify the bonding company that he has breached his contract.

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Mr. Caizza offered a motion to authorize the Borough Attorney to notify the Bonding Company of a breach in contract.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

ORDINANCES: Introduce and Set Public Hearing Date

Ordinance O-07-01

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

Mr. Nolan offered the following ordinance pass introduction, that a public hearing date be set for February 7th, 2007 at 8:00 p.m. and authorized its publication according to law:

Mr. Nolan offered the following Ordinance pass introduction and that a public hearing date be set for February 7, 2007 at 8:00 P.M. and authorized it publication according to law:

**O-07-01
BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF
HIGHLANDS
BY ADDING CHAPTER XXV, STORMWATER MANAGEMENT AND
CONTROL**

BE IT ORDAINED by the Mayor and Council of the Borough of Highlands, in the County of Monmouth and State of New Jersey, as follows:

SECTION 1

That Chapter XXV, Stormwater Management and Control, is added as follows:

1.1 Title

This section shall be known as and may be cited as the "Stormwater Management Ordinance of the Borough of Highlands"

1.2 Scope and Purpose

a. **Policy Statement**

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural Best Management Practices (BMPs). Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon

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physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

b. Purpose

It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for “major development” as defined in Section 2, Definitions.

c. Applicability

1. This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

a. Non-residential major developments; and

b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21; and

2. This ordinance shall also be applicable to all major developments undertaken by the Borough of Highlands.

d. Compatibility with Other Permit and Ordinance Requirements

Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

SECTION 2

2.1 Definitions

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

CAFRA Planning Map means the geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes

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pursuant to N.J.A.C. 7:7E-5B.3.

CAFRA Centers, Cores or Nodes means those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

Compaction means the increase in soil bulk density.

Core means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

County review agency means an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

A county planning agency; or

A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

Department means the New Jersey Department of Environmental Protection.

Designated Center means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

Design engineer means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

Development means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 et seq.

Drainage area means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

Environmentally critical areas means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Non-game Species Program.

Empowerment Neighborhood means a neighborhood designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

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Erosion means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

Impervious surface means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

Infiltration is the process by which water seeps into the soil from precipitation.

Major development means any “development” that provides for ultimately disturbing one or more acres of land. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

Municipality means the Borough of Highlands.

Node means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

Nutrient means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

Person means any individual, corporation, company, partnership, firm, association, Borough of Highlands, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

Pollutant means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. “Pollutant” includes both hazardous and non-hazardous pollutants.

Recharge means the amount of water from precipitation that infiltrates into the ground and is not evapo-transpired.

Sediment means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

Site means the lot or lots upon which a major development is to occur or has occurred.

Soil means all unconsolidated mineral and organic material of any origin.

State Development and Redevelopment Plan Metropolitan Planning Area (PA1) means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state’s future redevelopment and revitalization efforts.

State Plan Policy Map is defined as the geographic application of the State Development and Redevelopment Plan’s goals and statewide policies, and the official map of these goals and policies.

Stormwater means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, or is captured by

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separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

Stormwater runoff means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

Stormwater management basin means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

Stormwater management measure means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

Tidal Flood Hazard Area means a flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

Urban Coordinating Council Empowerment Neighborhood means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

Urban Enterprise Zones means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

Urban Redevelopment Area is defined as previously developed portions of areas: (1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes; (2) Designated as CAFRA Centers, Cores or Nodes; (3) Designated as Urban Enterprise Zones; and (4) Designated as Urban Coordinating Council Empowerment Neighborhoods.

Waters of the State means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

Wetlands or wetland means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

SECTION 3

3.1 General Standards

a Design and Performance Standards for Stormwater Management Measures

- 1 Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in Section 4.1. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

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- 2 The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

SECTION 4

4.1 Stormwater Management Requirements for Major Development

- a The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 10.1.
- b Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department' Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).
- c The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 4.1.f and 4.1.g:
 1. The construction of an underground utility line provided that the disturbed areas are re-vegetated upon completion;
 2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
 3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
- d A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 4.1.f and 4.1.g may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
 - 1 The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
 - 2 The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections 4.1.f and 4.1.g to the maximum extent practicable;
 - 3 The applicant demonstrates that, in order to meet the requirements of Sections 4.1.f and 4.1.g, existing structures currently in use, such as homes and buildings, would need to be condemned; and
 - 4 The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under 4.1.d.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate

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the requirements of Sections 4.1.f and 4.1.g that were not achievable on-site.

- e Nonstructural Stormwater Management Strategies
 - 1 To the maximum extent practicable, the standards in Sections 4.1.f and 4.1.g shall be met by incorporating nonstructural stormwater management strategies set forth at Section 4.1.e into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Paragraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.
 - 2 Nonstructural stormwater management strategies incorporated into site design shall:
 - (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - (b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
 - (c) Maximize the protection of natural drainage features and vegetation;
 - (d) Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
 - (e) Minimize land disturbance including clearing and grading;
 - (f) Minimize soil compaction;
 - (g) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
 - (h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
 - (i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
 - (i) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Section 4.1.e.3 below;
 - (ii) Site design features that help to prevent discharge of trash and debris from drainage systems;
 - (iii) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - (iv) When establishing vegetation after land disturbance, applying

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fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24- 39 et seq., and implementing rules.

- 3 Site design features identified under Section 4.1.e.2(i)(ii) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 4.1.e.3(c) below.
- (a) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
- (i) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
- (ii) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

- (b) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
- (c) This standard does not apply:
- (i) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
- (ii) Where flows from the water quality design storm as specified in Section 4.1.g.1 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
- A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
 - A bar screen having a bar spacing of 0.5 inches.
- (iii) Where flows are conveyed through a trash rack that has parallel

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bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in Section 4.1.g.1; or

- (iv) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.
- 4 Any land area used as a nonstructural stormwater management measure to meet the performance standards in Sections 4.1.f and 4.1.g shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.
 - 5 Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices (BMP) Manual. The BMP Manual may be obtained from the address identified in Section 7.1, or found on the Department's website at www.njstormwater.org.
- f Erosion Control, Groundwater Recharge and Runoff Quantity Standards
- 1 This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.
 - (a) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.
 - (b) The minimum design and performance standards for groundwater recharge are as follows:
 - (i) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 5.1, either:
 - (1) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or
 - (2) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated
 - (ii) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to Section 4.1.f.1(b)(iii) below.
 - (iii) The following types of stormwater shall not be recharged:
 - (1) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are

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expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

- (2) Industrial stormwater exposed to “source material.” “Source material” means any material(s) or machinery, located at an industrial facility that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.
- (iv) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or down gradient of the groundwater recharge area.
- (c) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 5.1, complete one of the following:
- (i) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
- (ii) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
- (iii) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

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(iv) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (i), (ii) and (iii) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

2 Any application for a new agricultural development that meets the definition of major development in Section 2.1 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this Section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this Section, “agricultural development” means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

g Stormwater Runoff Quality Standards

1 Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

| Table 1: Water Quality Design Storm Distribution | | | |
|---|-------------------------------------|-----------------------|-------------------------------------|
| Time (Minutes) | Cumulative Rainfall (Inches) | Time (Minutes) | Cumulative Rainfall (Inches) |
| 0 | 0.0000 | 65 | 0.8917 |
| 5 | 0.0083 | 70 | 0.9917 |
| 10 | 0.0166 | 75 | 1.0500 |
| 15 | 0.0250 | 80 | 1.0840 |
| 20 | 0.0500 | 85 | 1.1170 |
| 25 | 0.0750 | 90 | 1.1500 |
| 30 | 0.1000 | 95 | 1.1750 |
| 35 | 0.1330 | 100 | 1.2000 |
| 40 | 0.1660 | 105 | 1.2250 |
| 45 | 0.2000 | 110 | 1.2334 |
| 50 | 0.2583 | 115 | 1.2417 |
| 55 | 0.3583 | 120 | 1.2500 |
| 60 | 0.6250 | | |

2 For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 7.1, or found on the Department’s website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Section 7.1.

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Total Suspended Solids (TSS) reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, P.O. Box 418 Trenton, New Jersey, 08625-0418.

- 3 If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B)/100$$

Where

R = total TSS percent load removal from application of both BMPs

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BMP

| Table 2: TSS Removal Rates for BMPs | |
|--|---------------------------------|
| Best Management Practice | TSS Percent Removal Rate |
| Bioretention Systems | 90 |
| Constructed Stormwater Wetland | 90 |
| Extended Detention Basin | 40-60 |
| Infiltration Structure | 80 |
| Manufactured Treatment Device | See Section 6.1.c |
| Sand Filter | 80 |
| Vegetative Filter Strip | 60-80 |
| Wet Pond | 50-90 |

- 4 If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the sub-areas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.
- 5 Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections 4.1.f and 4.1.g.
- 6 Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 7.1.
- 7 In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- 8 Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those

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established Category One waters. These areas shall be designated and protected as follows:

- (a) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
 - (i) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.
 - (ii) Encroachment within the designated special water resource protection area under Subsection 4.1.g.8(a)(i) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.
- (b) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq.
- (c) If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:
 - (i) Stabilization measures shall not be placed within 150 feet of the Category One waterway;
 - (ii) Stormwater associated with discharges allowed by this Section shall achieve a 95 percent TSS post-construction removal rate;
 - (iii) Temperature shall be addressed to ensure no impact on the receiving waterway;
 - (iv) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
 - (v) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

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(vi) All encroachments proposed under this Section shall be subject to review and approval by the Department.

(d) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Section 4.1.g.8 has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to Section 4.1.g.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in 4.1.g.8.(a)(i) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

(e) Paragraph 4.1.g.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

SECTION 5

5.1 Calculation of Stormwater Runoff and Groundwater Recharge

- a Stormwater runoff shall be calculated in accordance with the following:
- 1 The design engineer shall calculate runoff using one of the following methods:
 - (a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or
 - (b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
 - 2 For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “runoff coefficient” applies to both the NRCS methodology at Section 5.1.a.1(a) and the Rational and Modified Rational Methods at Section 5.1.a.1(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

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- 3 In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce pre-construction stormwater runoff rates and volumes.
 - 4 In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.
 - 5 If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.
- b Groundwater recharge may be calculated in accordance with the following:
- 1 The New Jersey Geological Survey Report GSR-32 *A Method for Evaluating Ground-Water Recharge Areas in New Jersey*, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

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SECTION 6

6.1 Standards for Structural Stormwater Management Measures

- a Standards for structural stormwater management measures are as follows:
 - 1 Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
 - 2 Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 8.1.d.
 - 3 Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.
 - 4 At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.
 - 5 Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 8.1.
- b Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by Section 4.1 of this Chapter.
- c Manufactured treatment devices may be used to meet the requirements of Section 4.1 of this Chapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

SECTION 7

7.1 Sources for Technical Guidance

- a Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; Telephone (609) 777-1038.
 - 1 Guidelines for stormwater management measures are contained in the

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New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bio-retention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

- 2 The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.
- b Additional technical guidance for stormwater management measures can be obtained from the following:
- 1 The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;
 - 2 The Rutgers Cooperative Extension Service, 732-932-9306; and
 - 3 The Freehold Soil Conservation Districts, 4000 Kozloski Road, Freehold, NJ 07728, (732) 683-8500.

SECTION 8

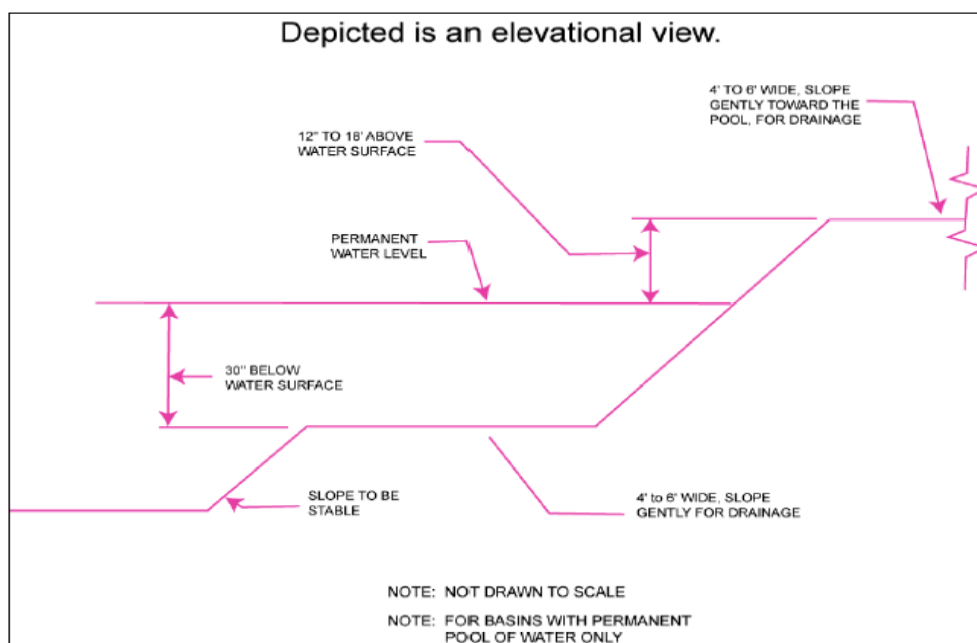
8.1 Safety Standards for Stormwater Management Basins

- a This Section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This Section applies to any new stormwater management basin.
- b Requirements for Trash Racks, Overflow Grates and Escape Provisions
 - 1 A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - (a) The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
 - (b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - (c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
 - (d) The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.
 - 2 An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

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- (a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - (b) The overflow grate spacing shall be no less than two inches across the smallest dimension.
 - (c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.
- 3 For purposes of this paragraph, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
- (a) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Section 8.1.c a freestanding outlet structure may be exempted from this requirement.
 - (b) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See Section 8.1.d for an illustration of safety ledges in a stormwater management basin.
 - (c) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.
- c Variance or Exemption from Safety Standards
- 1 A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.
- d Illustration of Safety Ledges in a New Stormwater Management Basin

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SECTION 9

9.1 Requirements for a Site Development Stormwater Plan

- a Submission of Site Development Stormwater Plan
 - 1 Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 9.1.c below as part of the submission of the applicant's application for subdivision or site plan approval.
 - 2 The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
 - 3 The applicant shall submit 15 copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 9.1.c of this ordinance.

- b Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the subdivision, site plan, or development application review process by the Planning Board, Zoning Board of Adjustment or official from which municipal approval is sought. The Board and/or Zoning Officer shall consult the Borough Engineer or other such engineer (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

- c Checklist Requirements

The following information shall be required:

- 1 Topographic Base Map
 - (a) The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The

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map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

- 2 Environmental Site Analysis
 - (a) A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
- 3 Project Description and Site Plan(s)
 - (a) A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.
- 4 Land Use Planning and Source Control Plan
 - (a) This plan shall provide a demonstration of how the goals and standards of Sections 3.1 through 6.1 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
- 5 Stormwater Management Facilities Map
 - (a) The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - (i) Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - (ii) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
- 6 Calculations
 - (a) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 4.1 of this ordinance.

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(b) When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7 Maintenance and Repair Plan

(a) The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 10.1.

8 Waiver from Submission Requirements

(a) The municipal official or board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in Sections 9.1.c.1 through 9.1.c.6 of this Section when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

SECTION 10

10.1 Maintenance and Repair

a Applicability

1 Projects subject to review as in Section 1.2.c of this ordinance shall comply with the requirements of Sections 10.1.b and 10.1.c.

b General Maintenance

1 The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.

2 The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

3 Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.

4 If the person responsible for maintenance identified under Section 10.1.b above is not a public agency, the maintenance plan and any future revisions based on Section 10.1.b.7 below shall be recorded upon the deed

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of record for each property on which the maintenance described in the maintenance plan must be undertaken.

- 5 Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.
 - 6 The person responsible for maintenance identified under Section 10.1.b .2 above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
 - 7 The person responsible for maintenance identified under Section 10.1.b 2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
 - 8 The person responsible for maintenance identified under Section 10.1.b. 2 above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 10.1.b.6 and 10.1.b.7 above.
 - 9 The requirements of Sections 10.1.b.3 and 10.1.b.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
 - 10 In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the Borough or the County may immediately proceed to do so and shall bill the cost thereof to the responsible person.
- c Nothing in this Section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

SECTION 11

11.1 Penalties

- a Any person who violates any provision of this ordinance shall, upon conviction thereof in municipal Court, be punishable by imposition of the penalties set forth in Chapter IX.
- b Each instance of engaging in a separate regulated activity, in violation of this ordinance shall be deemed a separate offense.
- c In addition, the Borough may institute civil action for injunctive or other relief to enforce the provision of this ordinance.

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SECTION 12

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

SECTION 13

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 14

The Borough Clerk is hereby directed, upon adoption of this Ordinance after public hearing thereon, to publish notice of the passage thereof and to file a copy of this ordinance as finally adopted with the Monmouth County Planning Board as required by N.J.S.A. 40:55D-16. The Clerk shall also forthwith transmit a copy of this ordinance after final passage to the Borough Tax Assessor as required by N.J.S. 40:49-2.1.

SECTION 15

This ordinance shall take effect immediately upon the approval by the County review agency, or sixty (60) days from the receipt of the ordinance by the County review agency if the county review agency should fail to act.

Seconded by Mayor O'Neil and introduced on the following roll call vote:

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

APPLICATIONS TO FIRE DEPARTMENT:

Howard Pronto III
Justin Vanbencholton
Michael Armstrong

Mayor O'Neil asked if all had cleared physicals and background checks.

Mrs. Flannery stated that all were cleared.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

OTHER BUSINESS:

Zoning Board Annual Report

Mayor O'Neil read into the record the following report from the Zoning Board:

Dear Mayor & Council;

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Attached is a copy of the 2006 Zoning Board Annual Report which is a summary of all of the applications heard in 2006 and the board decisions on applications.

Below is a listing of recommendations for amendments to the Zoning Ordinance:

1. Review permitted uses in the B-1 (H-O) Zone to permit Health & Fitness, Athletic Club and other associated uses in these zones.
2. Establish appropriate parking requirements in the H-O Zone.
3. Require appropriate setback primarily for business uses in the B-1 Zones on Route 36 because currently a 0-foot front setback is permitted.
4. Update permitted uses in the Borough to be more up to date with the current business uses, and avoid the need to seek a use variance.
5. Update permitted uses in the B-3 Zone adjacent to the bridge to establish more appropriate uses and eliminate the inappropriate uses.
6. Move the zone boundary line in the B-1 Zone at Linden Ave and Route 36 to fall entirely outside of the easternmost commercial property.

On behalf of the Zoning Board we thank you for your attention in this matter.

Sincerely,

Peter Mullen
Zoning Board Chairman

Mayor O'Neil stated that attached is a list of the Zoning Board decisions.

Offered by Mayor O'Neil.

Seconded by Mr. Nolan and accepted on the following roll call vote:

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski, Mayor O'Neil
NAYES: None
ABSENT: None
ABSTAIN: None

Mayor O'Neil spoke with regard to a problem on Miller Street where people were evicted, the town paid for the relocation fees, and attempts were made for reimbursement from the landlord for these fees. He stated that these fees were to be satisfied yesterday, and that he received a letter dated January 17th, stating that the landlord's daughter is sick and this is the reason for not satisfying these fees. Mayor O'Neil stated that he is prepared to go to the court Tuesday and demand action for reimbursement.

Mrs. Flannery stated that a resident has requested a street light assessment.

Mayor O'Neil suggested that the street lights be assessed during the evening hours and then it can be discussed.

Mrs. Flannery stated that there was correspondence with regard to restricted parking spaces for two churches on Bay Avenue. It is stated that the Methodist Church no longer needs such parking spaces. Mrs. Flannery stated that it can be offered at the next meeting for a resolution for 15 minute parking.

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Mr. Urbanski stated that with regard to the Cornwall Street bulkhead, it is deteriorated and he requested the Council's thoughts on this matter.

The Mayor and Council discussed whether to vacate this portion. Mr. Bucco stated that he needs to review the utilities and easement before making a determination.

Mayor O'Neil stated that this will be put on for the February 7th meeting.

Mrs. Flannery stated that the Ordinances for the dumpster and grease trap are tabled for the next meeting on February 7th.

APPROVAL OF MINUTES

Mr. Nolan offered a motion to approve the September 20th, 2006 minutes, seconded by Mr. Urbanski and all eligible members were in favor.

PUBLIC PORTION:

Carol Bucco - 230 Shore Drive - with regard to the firehouse, now that the contractor is moving along, he gets an additional \$20,000, she would like to know why.

Mr. Bucco stated that the change orders were for additional work necessary that were not part of the original contract.

With regard to the special attorney for the bridge project, Ms. Bucco stated that if the special attorney is going to find facts, that is fine, but if the special attorney is just going to object to the bridge itself, that is not fine. She stated that the bridge is not structurally sound, that it is not historic, and stating that the new bridge will ice over, she stated that practically every bridge has a warning sign that it may ice over. She said that when walking over the bridge, as traffic passes by, the bridge shakes. Ms. Bucco stated that she can't see interrupting the construction of a bridge, that has gone on for 10 years, just because some people may have their views disturbed. She wants to go on record that not everybody in this town is opposed to the new bridge.

Mayor O'Neil stated that the special attorney is to see if the Borough was misled in any way, to get to the facts.

Ms. Bucco said that as long as it is to obtain facts, she has no objection.

Mr. Urbanski stated that he spoke with someone from the DOT explaining the Borough's concerns, and was told that the State of New Jersey was proceeding.

Ms. Bucco stated that she doesn't want to see the Borough spending money on something that she feels is going to happen anyway.

Erik Wokas - 145 Portland Road - he stated that he did not just buy a house, he bought a view, and his view is very important to him. He stated that just because a bridge shakes, that does not make it structurally unsound.

Carla Braswell - she wanted to know if we can revisit the request for a fishing pier under the bridge.

Mayor O'Neil stated that a bulkhead was asked for and the answer was that they would put a gazebo there and a dock. He stated that the river hasn't frozen in a few years, but if and when it does, that dock may be destroyed.

Chris Francy - 36 5th Street - he believes that the agreement made with Dave Gilson sets a bad precedent. He questioned Mr. Gilson being paid for sick time.

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Mr. Manco stated that even though someone disagrees with the policy, this is what happens in municipalities, that a person be compensated for unused vacation and sick time.

Mr. Francy questioned why Mr. Gilson would be paid under this policy when in fact he was working on a month to month basis because his contract expired two years prior.

Mr. Manco stated that State law defines what happens when a State employee leaves, and that they are entitled to up to \$15,000. There is no cap on a town employee, that's the difference.

Mr. Francy also had a question with regard to Atlantic Street. A portion of this street was given to Lynn Hunter because she was going to repair the bulkhead between the two properties. This has not been done. Why give away property if we are not going to receive the benefit that we are supposed to get?

Mayor O'Neil stated that the only alternative would be to put out bids to repair the bulkhead.

Mr. Francy questioned why.

Mayor O'Neil stated that it is a hazard and needs repair.

Mr. Francy stated that there are a lot of things that do not get repaired that are hazards.

Mr. Urbanski stated that we can't ask someone to fix it and then the Township keep the property.

Mr. Francy stated that the only agreement that worked was at the foot of Jackson, Scott did do that work.

Mr. Urbanski stated that he believes the bulkhead at the foot of Atlantic Street was being maintained by Lynn Hunter, not repaired.

Mr. Francy believes that the words used was to repair it not maintain it.

Mayor O'Neil believes that the last time the Borough did something there she already owned that front.

Mr. Francy does not believe that that is the case.

Mayor O'Neil stated that he is sure that she owned that front and that there was a strip of the road that came down into the parking lot.

Mr. Francy said that the Borough owns that right-of-way.

Mr. Caizza stated that the Borough owns to the bulkhead and that Ms. Hunter maintained it all.

Mayor O'Neil asked if the bulkhead was falling down.

Mr. Caizza stated that it was not.

Donna Callahan - 29 S. Bay - with regard to the specialty order, what facts are being looked for, who is proposing the questions and what attorney is it going to be.

Mr. Manco stated that the specialty lawyer has experience with dealing with the DOT. The attorney will be making sure that all the procedural rules are being followed, the right documentations, permits and the like, are in place.

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Miss Thomas added that they will be responsible for monitoring the environmental studies, alternative analysis reports, and working closely with the Sea Bright and their attorney.

Mr. Manco stated that her name is Jeanine Behr and that she has committed to a lower rate than she is actually entitled to and has committed to a certain block of time regarding this project.

Ms. Callahan asked that if this work could be done in time to possibly sway the decision from Commissioner Jackson which is expected on or about January 25th, 2007.

Miss Thomas stated that that is their plan, and that the Sea Bright attorney, Mr. Manco and Ms. Behr will be holding a meeting with the DOT next week regarding this matter.

Carol Cassidy - Kay Street - how will we know what happens and when will we know?

Mayor O'Neil stated that after we find out.

Ms. Cassidy asked if then will there be a regular meeting to discuss those findings?

Mr. Manco stated that after receiving the report as to what recommendations are being made, that there will then be an open public meeting.

Ms. Thomas stated if there is a special meeting, that it will be advertised in the newspaper and posted on the board out front. If there is not a special meeting held, then it will occur at the regular meeting on February 7th.

Martin Kiely - 39 Shore Drive - inquired about the contractor for the fire house and that for the last four months, he has been moving dirt back and forth from the site to the parking lot across the street from the recycling plant. He is upset with regard to the dirt and that the contractor does not seem to be cleaning up the site. He also questioned why the city sweeper went out to clean-up after this guy when it should be the contractor's responsibility. Some of this fill is not clean dirt - who has the authority to dump this stuff where there are people living? Did it have to be tested? Is it draining into the bay? He stated that the DEP, the EPA, the Attorney General's and Prosecutor's Office all say that it is not legal to do this type of dumping and requested that it stop.

Mr. Kiely inquired about whether or not his street could be reversed to go the other way?

Mr. Caizza asked if he meant behind the Bootlegger?

Mr. Kiely stated yes.

Mr. Caizza said that the County would not allow it.

Mr. Kiely asked if the DOT could override that.

Mr. Caizza did not know.

Mr. Kiely said that so far the DOT is saying they can and the County is saying they can. He stated that home rule prevails in this instance and that the Borough can stop it. He also said that he wants his road to stay exactly as it is but that he does not want the DOT to change it. According to the DOT, the County can not stop it, but the Borough can because home rule prevails.

Mayor O'Neil stated that Chief Blewett has been working with the State regarding traffic.

Mr. Kiely stated that anything to stop things now is a good thing and that all the planning that has been done has changed a million times so far. The cost for the bridge seems to

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be between \$110 million and \$137 million and he has read that it costs approximately \$1 million a year to maintain the bridge.

Spencer Adler, Esq. - he stated that he does not own property in the Borough of Highlands, his sister does. He has been working on the Highlands Bridge matter since last August, entirely pro bono. He stated that he went to a hearing in August in Trenton, and he heard the DOT say to the Historic Sites Council, on the record, that there are three options with regard to the bridge, and that they explained it to the local people of Highlands. There is the repair, which is approximately \$50 million. There's the option of replacement with a new drawbridge, which is approximately under \$100 million. And there is the replacement with a giant span bridge, which is \$122 million or so. The DOT stated that they were choosing the span bridge because the local people were demanding it. It appears that there was never any choice made, that the people of Highlands were presented with a done deal. He feels that if the DOT pushed this through improperly, that they need to back-up several steps and give the Borough of Highlands a choice.

Mayor O'Neil stated that this was discussed last time Mr. Adler was present, that there was never a choice presented.

Mr. Adler went on to say with regard to Ocean Avenue, that we will now have two lanes of traffic, driving at highway speed, coming into one lane of traffic in Sea Bright and Monmouth Beach before opening up to two lanes again in Long Branch. He's heard that the DOT will never widen Ocean Avenue because there are too many telephone poles in the way. The issues here are the safety of a steep span bridge but also Mantaloking. He stated that what happened in Mantaloking was that their draw bridge, similar to the Highlands Bridge, was replaced with a span bridge. One of the State's best real estate appraisal firms went into Mantaloking and did a study, after the construction of the bridge of the homes with views of the span bridge compared to the views of the draw bridge. They found that there was a 20 percent drop in real estate values. He stated that surely the people who are affected by this span bridge do not get a 20 percent drop in their taxes, that they will most certainly go to court to get that. When it is calculated out how much is at stake, a couple thousand for residential with a view plus the commercial properties, it could mean a loss to the Borough of Highlands of roughly $\frac{3}{4}$ of a million dollars in tax revenue.

Mr. Adler stated that the opposition on this issue is strong. He stated that Chris Colori (sic) is writing an op ed piece to the Asbury Park Press and that he is very committed. But at the same time, even his arguments publicly are contradicted by his own people. Mr. Colori stated in the Asbury Park Press that \$50 million for repair will buy 10 more years of life. However, his own people in a 2003 feasibility assessment said that \$45 million of repair would buy 50 more years of life for the bridge.

Mayor O'Neil stated that those are the things that we all want to find out.

Mr. Adler added that the Borough should go through that process aggressively. His last two points are that he wanted to find out if Chris Colori was right when his staff contacted some of you individually last week saying, this is a done deal, there's no way to stop this, you're wasting your money and your time. He stated that he contacted a firm asking if they could look into this, if they could find out if there is in fact a giant flaw with the way the DOT has handled this. Whether Sea Bright or Highlands hires this firm, Mr. Adler told them that he would guarantee their fee. That he wanted to be able to give the best guidance and the right information to the people of Highlands. His hope is that the Mayor and Council take this into consideration and go into this fight with their heart and soul and stand up for your rights and take control of something that will impact the Borough of Highlands for many years to come.

Mr. Adler then asked, this anticipated meeting with Commissioner Jackson, will he be invited to join the Mayor and Council at that meeting?

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Miss Thomas stated that they could not make a decision on the spot, that the attorney would have to discuss that and Sea Bright has to be involved.

Mr. Adler stated that assuming that we could work out the confidentiality issues -

Miss Thomas stated that she realizes that Mr. Adler is interested in attending and that it will have to be discussed.

Steve Cassidy - 7 Kay Street - firstly would like to commend the Mayor and Council for changing their mind about the bridge, based on new information. He stated that considering that a former employee can get a parting gift of \$36,000 and that a contractor, who is not well liked and not doing a great job on the fire house can get \$19,000, why such a small amount set aside for investigation of the bridge? Once the bridge is gone, it's gone, it won't come back.

Mayor O'Neil stated that he understands Mr. Cassidy's concern, but that he does resent the two remarks regarding the \$36,000 and the \$19,000, stating that it wasn't a parting gift or money given to a contractor that nobody liked, it was strictly business.

Mr. Cassidy apologized to Mayor O'Neil. He stated that he encourages the Mayor to spend as much money as it takes so that the bridge that has served Highlands well, is cared for.

Ms. _____ asked if the council has read the document put out by the Coast Guard for public comment that has a description of the project and the bridge plans? Her understanding from previous meetings is that it was said that the bridge would be the same size other than a curve to the right and that it would not impact Highlands further than the existing bridge. The current bridge is approximately 1200 feet and the new bridge, according to the documents, will be approximately 1600 feet but the size of the project is 6900 feet - and that is a glaring discrepancy -

Mayor O'Neil stated that might be lineal feet of surface that is being worked. May include the underpass and overpass that is being worked as well.

Ms. _____ stated that is possible but it would still be a lot more feet than accounted for by the curvature because it is going partly over where the old bridge is, and the overpasses are pretty much the same. She also stated that the documentation is only showing a 5 percent grade. According to Matthew's calculations, the grade would have to be 8 percent and start further back on Route 36 than originally thought. She feels that this is something that should be looked into.

Mayor O'Neil said that the last time we were there, they said that wasn't happening.

Ms. _____ said that the Coast Guard documents suggest otherwise.

Mayor O'Neil stated that these are the types of things that we are looking to find out.

Ms. _____ referred to the Coast Guard document found on their web site and that they talk about other things that will be impacted by this bridge, such as Bahr's Restaurant and other businesses in the area.

Mrs. Francy - 36 5th Street - she would like to see the Borough go in with a specific agenda, so that if there are three alternatives, she would like to see something along the lines of a spreadsheet to see each one and the costs involved. If we can fix this bridge for \$50 million versus \$120 million new span - \$70 million for a bicycle path is a lot of money.

Mayor O'Neil stated again that since he's been involved with this, not a single business, with the exception of Henry Moore, come in and complained that this new bridge would affect their businesses.

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Mrs. Francy stated that perhaps because it was presented as no alternative.

Lori Dibble - 32 Paradise Park - she asked if there was a decision with regard to her request to add additional members to the Bayshore Regional Strategic Planning process.

Mayor O'Neil stated that there has not been any discussion to date with regard to that matter. He stated that if she would like to join, that it is fine with him.

Ms. Dibble asked if there was any progress regarding the Environmental Commission.

Mayor O'Neil stated that he has not spoken to Mr. Gallagher in a month.

Miss Thomas stated that as far as she knew, he was no longer the chairperson.

Ms. Dibble stated that he was the commissioner and that they have yet to even appoint a chairperson. She also asked regarding the availability of the GIS data layers that were included in the master plan contract for the zoning parcels and the tax person data.

Mayor O'Neil stated that that information will be looked into.

William Sabanski - 50 Lighthouse Road - he distributed a letter to the Mayor and Council and stated that back on May 18th, 2005, there was an ordinance before the Mayor and Council, O-05-07 which concerned a vacation of a portion of South Peak Street. He stated that he was in attendance at that meeting and that he spoke about the property surrounding that vacation. He noted that it is all outlined in his letter. At that meeting it was established that that portion of South Peak Street could not be vacated since it had previously been vacated by ordinance O-79-17. He stated that he owns a portion of the property adjacent to the right-of-way and across the street and that in the early 90's he asked the assistance of the Borough to help them acquire an interest in the right-of-way. The Borough at that time refused his request. There are some discrepancies regarding this property and some work that needs to be done regarding the retaining wall, all of which is stated in his letter. He stated that he would be attending future meetings to discuss this matter further.

Mayor O'Neil stated that he would look into this matter.

Mr. Sabanski pointed out on a map the property lines and stated that his point of reference dates back as far as the 1800's.

Mr. Manco stated that basically Mr. Sabanski's position is, is that the tax map has been changed and it's wrong.

Mr. Sabanski stated that the meeting that took place in May of 2005, the discussion was that the Borough attorney said to go ahead and pass a vacation ordinance and if we don't have any rights to vacate it, it doesn't matter, we'll still just basically wash our hands of it.

Mr. Manco stated that that is incorrect and that the position is that vacating a street is not an act by which we convey title to someone, it's an act by which we give up a right to use property. And if you happen to be the underlying property owner, and you have rights to that property, those are rights that you can assert. But you are saying that basically from your research, you own the entire right-of-way that was vacated and that therefore the tax map is wrong.

Mr. Sabanski said that the Borough, at that point, suggested that the Borough do nothing else in this matter and allow the neighbors to work this matter out themselves.

Mr. Manco stated that without any additional information, the typical way that a tax map would be changed after a street vacation is the way that it is shown on this. He stated that

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Mr. Sabanski's position is that it is wrong. He stated that Mr. Sabanski also indicated that he had done some title work and that he would be happy to receive that and forward that to T&M Associates and go over it and see if they can make a determination as to whether the tax map needs to be revised again.

Mr. Sabanski stated that the tax map, as it currently appears, does not show the three sections being clearly delineated as parcel to the attached lots with it.

Mr. Sabanski then discussed with the Mayor and Mr. Manco the procedures for vacating property and filing or changing tax maps.

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

The Meeting adjourned at 10:33 P.M.

NINA LIGHT FLANNERY, BOROUGH CLERK